UNITED
NATIONS

**CEDAW**

**Convention on the Elimination of all Forms of Discrimination Against Women**

Distr.
GENERAL

CEDAW/C/5/Add.16
21 July 1983

ORIGINAL: ENGLISH/
FRENCH

Committee on the Elimination of
Discrimination Against Women (CEDAW)

# CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER ARTICLE 18 OF THE CONVENTION

## Initial reports of States Parties

## CANADA

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## INTRODUCTION

This document is Canada's first report on the measures taken to give effect to the substantive provisions of the Convention on the Elimination of All Forms of Discrimination Against Women.

The report comprises three separate documents. The first, prepared by the federal Department of the Secretary of State on the basis of information supplied by provinces, territories and federal government departments and agencies, covers Canada as a whole. The second and third documents were prepared by the governments of Ontario and Quebec and deal with the state of compliance only in those jurisdictions.

The Introduction itself is designed to provide basic general information on Canada in order to give some perspective on the specific measures described in the text. Such topics as the Canadian constitutional system, the significance of international treaty law and the development of women's rights are addressed. The Introduction concludes with a series of tables giving a general demographic profile of the Canadian population.

## 1 BACKGROUND TO RATIFICATION OF THE CONVENTION BY CANADA

The Convention on the Elimination of All Forms of Discrimination Against Women was adopted by the United Nations General Assembly on 18 December 1979. One hundred and thirty States voted for its adoption. There were 10 abstentions and no votes against adoption. The Convention entered into force on 3 September 1981 thirty days after the deposit of the twentieth instrument of ratification.

Canada ratified the Convention on 10 December 1981 after having indicated its intention to do so by signing the Convention on 17 July 1980 at the World Conference of the United Nations Decade for Women, held in Copenhagen 14-30 July 1980. The Convention entered into force for Canada on 10 January 1982, thirty days after the deposit of the instrument of ratification in New York. Canada was the 32nd country to ratify the Convention.

Before ratifying the Convention, the federal government obtained the agreement of all the provinces in the Canadian confederation. All senior governments within Canada undertook to adopt the measures necessary for the implementation of the Convention in the areas under their jurisdiction. The deposit of the Canadian instrument of ratification was accompanied by the following statement:

> The Government of Canada states that the competent legislative authorities within Canada have addressed the concept of equal pay referred to in article 11(1)(d) by legislation which requires the establishment of rates of

> remuneration without discrimination on the basis of sex. The competent legislative authorities within Canada will continue to implement the object and purpose of article 11(1)(d) and to that end have developed, and where appropriate will continue to develop additional legislative and other measures.

The decision to ratify the Convention was reached through the Continuing Federal-Provincial Committee of Officials Responsible for Human Rights. Established in 1975 to provide a forum for ongoing liaison and consultation, the committee meets twice yearly to study particular questions concerning the implementation of international human rights instruments. This body has proved to be an effective organization for the exchange of views between the federal and provincial governments and in the implementation of international human rights instruments.

Within the federal government, an Interdepartmental Committee on Human Rights established in 1975 regularly examines questions relating to the implementation of Canada's obligations under international human rights instruments. In several provinces there are official bodies performing functions of a similar nature.

## 2 REPORTS SUBMITTED UNDER OTHER INSTRUMENTS OF THE UNITED NATIONS ORGANIZATION

Canada has regularly submitted reports to the United Nations Organization under the terms of various treaties and in answer to other requests of the Organization. Those reports which are noted below complement, in certain respects, the content of the present report.

### a International Covenant on Civil and Political Rights

In April 1979, Canada submitted the report required under the terms of Article 40 of that Covenant.

### b International Covenant on Economic, Social and Cultural Rights

- Canada's report on Articles 6 to 9 of the Covenant was submitted to the Secretary-General of the United Nations Organization in April 1981.
- Canada's report on Articles 10 to 12 was submitted in March 1983.

## c Conventions of the International Labour Organization

Canada has ratified several conventions of the International Labour Organization which are relevant to provisions of the Convention on the Elimination of All Forms of Discrimination Against Women.

- In 1964 Canada ratified Convention No. 111 concerning Discrimination in respect of Employment and Occupation and has reported biennially thereafter.
- In 1972 Canada ratified Convention No. 100 concerning Equal Remuneration for Men and Women Workers for Work of Equal Value. Biennial reports on Convention 100 have been submitted to the ILO.
- In 1977, Canada submitted a report on ILO Convention 123 concerning Employment of Women with Family Responsibilities. This convention has since been replaced by Convention 156, Equal Opportunities and Equal Treatment for Men and Women Workers: Workers with Family Responsibilities.
- It should be noted that in May 1978 Canada denounced Convention 45 (Convention concerning the Employment of Women in Underground Work in Mines of All Kinds), ratified by Canada in 1966. The denunciation of this Convention which took effect May 19, 1979, was explained in the following way:

> The Government of Canada is aware that at the time of its adoption, Convention 45 was intended to prevent exploitation of women workers and was thus considered a step toward social progress. However, it is now considered within the various jurisdictions of Canada that the Convention limits the employment opportunities of women and that it is, therefore, in contradiction to the principle of equality of treatment and opportunity between men and women workers, to which the Government of Canada attaches great importance.

## d International Convention on the Elimination of All Forms of Racial Discrimination

Canada ratified the International Convention on the Elimination of All Forms of Racial Discrimination on

October 14, 1970. In compliance with Article 9, Canada submitted a first report one year after the Convention's entry into force for Canada. Since then five biennial reports have been submitted.

These reports mainly describe the enactment of antidiscrimination legislation by the provinces and by the federal government, the setting up of enforcement agencies and the adoption of numerous positive programs in favour of disadvantaged racial or ethnic minorities.

### e United Nations Yearbook on Human Rights

It should be mentioned that Canada has contributed to the Yearbook on a regular basis.

## 3 THE CANADIAN CONSTITUTIONAL SYSTEM

Canada is a federal state comprising ten provinces, Alberta, British Columbia, Manitoba, New Brunswick, Newfoundland, Nova Scotia, Ontario, Prince Edward Island, Quebec and Saskatchewan as well as two territories, the Northwest Territories and the Yukon Territory.*

Within the Canadian Confederation, legislative powers are exercised by the federal and provincial governments according to the distribution of powers set out in the Constitution Act, 1867 (formerly know as the British North America Act, 1867) and the amendments thereto. Furthermore, pursuant to a delegation of powers to the Territories by the federal Parliament, the two territorial governments also exercise legislative powers.

The revitalized Constitution of Canada came into force on 17 April, 1982 by virtue of the enactment by the Parliament of the United Kingdom (at Canada's request) of the Canada Act, 1982. The Constitution comprises the Canada Act, 1982 including the Constitution Act, 1982 (which contains the Canadian Charter of Rights and Freedoms) and all the constitutional acts and orders adopted since 1867 including the Constitution Act, 1867. The Charter contains an equal rights provision (section 15 guaranteeing protection against discrimination on the basis of sex amongst other grounds) which will become operative in April 1985. The Charter also contains a stipulation (in section 28) that Charter rights are "guaranteed equally to male and female persons".

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* Within the body of the text, the provinces are listed in terms of their geographical location rather than alphabetically as here. The similarities amongst certain kinds of statutes in the Western and in the Atlantic provinces suggest the practicality of such a measure.

Section 91 of the Constitution Act, 1867 sets out the principal relevant heads of legislative authority of the federal government. Those of the provincial governments are set out in section 92. The federal government's principal relevant heads of power are banking (s.91(15)), Indians (s.91(24)), naturalization and aliens (s.91(25)), marriage and divorce (s.91(26)) and the criminal law (s.91(27)). The principal relevant heads of legislative authority of the provincial governments are hospitals and charities (s.92(7)), the solemnization of marriage (s.92(12)), property and civil rights (s.92(13)) and matters of a merely local or private nature (s.92(16)). Both s.92(13) and s.92(16) have been interpreted broadly by the courts so as to include such matters as labour law, family law and anti-discrimination legislation. Also, section 93 gives the provinces legislative authority in regard to education.

## 4 IMPLEMENTING INTERNATIONAL LAW IN CANADA

In Canada, international treaties are not automatically part of the law of the land. The provisions of a treaty can be incorporated into domestic law either by the enactment of a statute giving the treaty the force of law or by amendment of the domestic law to make it consistent with the treaty, where necessary. The implementation of a treaty the provisions of which come under the jurisdiction of one or the other or both levels of government requires the intervention of the Canadian Parliament, the provincial legislatures and, unless Parliament decides otherwise, of the territorial legislative assemblies for those parts of the treaty that fall within the jurisdiction of each.

All governments in Canada have undertaken to give effect to the provisions of the Convention by amending domestic law to make it consistent with the Convention if, after study, this proves to be necessary. It should be noted, however, that most of the rights recognized in Articles 1 to 16 of the Convention are already protected in Canada. Even before the Convention came into force in Canada, both levels of government had, each within the ambit of its jurisdiction, singly or in cooperation with each other, taken steps to implement the provisions of these articles and to protect these rights.

## 5 DEVELOPMENT OF WOMEN'S RIGHTS IN CANADA

The history of women's rights is relatively brief in Canada. Its great moments are the granting of the vote to women; the legal recognition of women as "persons"; the appointment and reporting of the Royal Commission on the Status of Women in Canada; the enactment of human rights codes and the establishment of human rights commissions to enforce the legislation; and the adoption of the Canadian Charter of Rights and Freedoms.

a. Woman Suffrage: 1916-1940

Women in western Canada were the first to win the provincial franchise. In 1916, Manitoba, Saskatchewan and Alberta all gave women the right to vote. By 1919, British Columbia, Ontario, Nova Scotia and New Brunswick had done the same. The right to the federal vote was obtained in 1918. The right of Quebec women to vote was obtained in 1940.

b The Persons Case

The right of women to sit in the Senate was won in court as the following excerpt explains:

> Under section 24 of the British North America Act, 1867, any qualified person could be summoned to the Senate. However, there was some uncertainty as to whether women could be classified as "persons". Governments, when pressed to appoint a woman to the Senate, took refuge in the ambiguity of the Act. Eventually in 1927, five Alberta women presented a petition to the federal government asking that the Supreme Court of Canada be required to provide an interpretation of the word "persons". On April 24, 1928, the court decided that "persons" did not include women. The decision was appealed to the Judicial Committee of the Privy Council and on October 18, 1929, it ruled that "... the word 'persons' in Section 24 of the British North America Act includes members both of the male and female sex ... and that women are eligible to be summoned to and become members of the Senate of Canada".*

c The Royal Commission on the Status of Women

The Commission was appointed in 1967 to inquire into and report upon the status of women in Canada and to recommend what steps might be taken by the Federal Government to ensure for women equal opportunities with men in all aspects of Canadian society. The Commission reported in 1970, making 167 recommendations under the following topics:

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* Royal Commission on the Status of Women in Canada, Report (Ottawa: Information Canada 1970) p.338.

- Women in the Canadian Economy
- Education
- Women and the Family
- Taxation and Child-care Allowances
- Poverty
- Participation of Women in Public Life
- Immigration and Citizenship
- Criminal Law and Women Offenders
- Plan for Action

The Commission's Report is described in more detail under Article 3.

### d Human Rights Commissions

By the mid-nineteen seventies, all provinces in Canada had established Human Rights Commissions whose primary function was to administer human rights legislation.

Those statutes, prohibiting discrimination on the grounds of sex (amongst other characteristics), have had a major impact in establishing women's right to equal status in Canadian society especially in the field of employment.

### e Canadian Charter of Rights and Freedoms

Equality of status between the sexes is guaranteed by the inclusion of the Charter in the new Constitution of Canada. The equality provisions are discussed in detail under Article 2(a).

## 6 STRUCTURE AND CONTENT OF THE REPORT

This report is submitted in accordance with the provisions of Article 18.1(a) of the Convention requiring States Parties to submit a report within one year after the entry into force of the Convention. The process for the preparation of the report was determined at the June 1982 meeting of the Continuing Federal-Provincial Committee of Officials Responsible for Human Rights.

In the absence of Guidelines from the Committee on the Elimination of Discrimination Against Women (CEDAW) on the content and style of the report and in view of the fact that the equality rights guaranteed in the Canadian Charter of Rights and Freedoms will not come into force until 1985, it was decided that Canada's first report would be limited to an overview of the state of equality between women and men as it was in 1982.

This Report comprises three documents. The first covers most Canadian jurisdictions (the federal, eight provincial and two territorial) and is based on materials supplied by these governments. The second and third parts are composed of the Reports of Ontario and Quebec as produced by the governments of those provinces.

Thus the first part of the Report includes descriptions of both federal and provincial measures relating to the Convention. However, in regard to some of the Articles, authority rests primarily with the provincial governments, and in regard to others primarily with the federal government. Thus, for the most part measures relating to Article 10 on education, Article 12 on health care and Article 16 on marriage and family relations are provincial, whereas measures in relation to Article 6 on prostitution and Article 9 on nationality are primarily federal.

The principal statutes and the documentation listed under each article of the Report of Canada are transmitted to the Secretary-General as reference material under separate cover.

## 7 THE STATISTICAL DIGEST

As drafting of the Report progressed, an awareness developed of the unique nature of the Convention amongst international human rights instruments. The aim of the Convention, as indicated by the language of many of its articles, is the achievement of *de facto* equality between men and women. The Convention requires that appropriate measures be taken in many areas of society in order to achieve this goal. Thus, to assess the adequacy of the measures adopted by Canada, it is necessary to know to what extent the position of women in Canadian society is equal to that of men.

It was therefore decided to employ an approach unique to reporting under international instruments, by developing the concept of a Statistical Digest using numbers to demonstrate the state of compliance with Convention requirements. This project was undertaken jointly by Status of Women Canada and Statistics Canada.

In view of the decision not to undertake an in-depth review of the state of equality between women and men for this first report (as noted earlier), the statistical digest has been developed for only one article. Article 11 was chosen to illustrate the concept of the Statistical Digest since in most cases the statistics required to show the state of equality between the sexes for each subarticle were already available. The objective, when reporting on a four-year basis, is to present numerical measures of equality for all operative articles.

## 8 CONCLUDING REMARKS

The Convention on the Elimination of All Forms of Discrimination Against Women is unique amongst international human rights instruments. Rather than enjoining states to guarantee specific rights to all citizens without discrimination, the Convention requires a state to take all appropriate measures to ensure that half its population is guaranteed the exercise and enjoyment of human rights and fundamental freedoms on the basis of equality with the other half of the population.

Of sixteen operative provisions in this Convention, twelve define equality rights in that States Parties are required to eliminate discrimination against women and to take (all) appropriate measures to treat women on an equal basis with men. The implications for reporting under an equality treaty as opposed to a treaty which guarantees rights to all, are profound.

Table A. Population of Canada, 1971, 1976 and 1981.

| YEAR | Both Sexes | Female | Male | Female as a % of total population. |
|---|---|---|---|---|
| | Number | | | Per cent |
| 1971 | 21568310 | 10772945 | 10795370 | 49.9 |
| 1976 | 22992600 | 11543080 | 11449520 | 50.2 |
| 1981 | 24343180 | 12274895 | 12068290 | 50.4 |

Sources: 1976 Census of Canada, Catalogue 92-823.
1981 Census of Canada, Catalogue 92-901.

## Table B. Population of Canada by Age Group, 1971, 1976 and 1981.

| Age Group | 1971 | | 1976 | | 1981 | |
|---|---|---|---|---|---|---|
| | Female | Male | Female | Male | Female | Male |
| | Number | | Number | | Number | |
| 0-4 | 886555 | 929605 | 843355 | 888640 | 868925 | 914450 |
| 5-9 | 1101575 | 1152430 | 921080 | 966730 | 864920 | 911940 |
| 10-14 | 1129290 | 1181450 | 1111730 | 1164645 | 936130 | 984740 |
| 15-19 | 1039915 | 1074430 | 1149280 | 1195975 | 1132875 | 1182015 |
| 20-24 | 947630 | 941775 | 1068040 | 1065765 | 1169520 | 1174295 |
| 25-29 | 783410 | 800710 | 992540 | 1000520 | 1093200 | 1084410 |
| 30-34 | 644550 | 660875 | 804795 | 822690 | 1017100 | 1021480 |
| 35-39 | 618820 | 645045 | 657450 | 671335 | 807955 | 822295 |
| 40-44 | 621760 | 640765 | 624640 | 643575 | 663240 | 674665 |
| 45-49 | 625630 | 613415 | 622370 | 630475 | 620645 | 634705 |
| 50-54 | 533640 | 518895 | 624465 | 595715 | 621815 | 621660 |
| 55-59 | 482315 | 472415 | 526775 | 492265 | 611530 | 568385 |
| 60-64 | 395320 | 381690 | 469615 | 435790 | 516930 | 462385 |
| 65-69 | 323910 | 296050 | 382300 | 338520 | 453750 | 390585 |
| 70-74 | 251800 | 205575 | 292360 | 241365 | 352190 | 281225 |
| 75-79 | 185515 | 139995 | 212275 | 150430 | 252175 | 180480 |
| 80-84 | 118490 | 85690 | 135310 | 85250 | 161860 | 94930 |
| 85-89 | 59385 | 40625 | 70900 | 41475 | 86920 | 44020 |
| 90 and over | 23440 | 13940 | 33795 | 18365 | 43235 | 19610 |
| Total | 10772945 | 10795370 | 11543080 | 11449525 | 12274895 | 12068290 |
| | Per cent | | Per cent | | Per cent | |
| 0-4 | 8.2 | 8.6 | 7.3 | 7.8 | 7.1 | 7.6 |
| 5-9 | 10.2 | 10.7 | 8.0 | 8.4 | 7.0 | 7.6 |
| 10-14 | 10.5 | 10.9 | 9.6 | 10.2 | 7.6 | 8.2 |
| 15-19 | 9.7 | 10.0 | 10.0 | 10.4 | 9.2 | 9.8 |
| 20-24 | 8.8 | 8.7 | 9.3 | 9.3 | 9.5 | 9.7 |
| 25-29 | 7.3 | 7.4 | 8.6 | 8.7 | 8.9 | 9.0 |
| 30-34 | 6.0 | 6.1 | 7.0 | 7.2 | 8.3 | 8.5 |
| 35-39 | 5.7 | 6.0 | 5.7 | 5.9 | 6.6 | 6.8 |
| 40-44 | 5.8 | 5.9 | 5.4 | 5.6 | 5.4 | 5.6 |
| 45-49 | 5.8 | 5.7 | 5.4 | 5.5 | 5.1 | 5.3 |
| 50-54 | 5.0 | 4.8 | 5.4 | 5.2 | 5.1 | 5.2 |
| 55-59 | 4.5 | 4.4 | 4.6 | 4.3 | 5.0 | 4.7 |
| 60-64 | 3.7 | 3.5 | 4.1 | 3.8 | 4.2 | 3.8 |
| 65-69 | 3.0 | 2.7 | 3.3 | 3.0 | 3.7 | 3.2 |
| 70-74 | 2.3 | 1.9 | 2.5 | 2.1 | 2.9 | 2.3 |
| 75-79 | 1.7 | 1.3 | 1.8 | 1.3 | 2.1 | 1.5 |
| 80-84 | 1.1 | .8 | 1.2 | .7 | 1.3 | .8 |
| 85-89 | .6 | .4 | .6 | .4 | .7 | .4 |
| 90 and over | .2 | .1 | .3 | .2 | .4 | .2 |
| Total | 100.0 | 100.0 | 100.0 | 100.0 | 100.0 | 100.0 |

Sources: 1976 Census of Canada, Catalogue 92-823.
1981 Census of Canada. Catalogue 92-901.

## Table C. Population of Canada by Marital Status, 1971, 1976 and 1981

| Marital Status | 1971 |  | 1976 |  | 1981 |  |
|---|---|---|---|---|---|---|
|  | Female | Male | Female | Male | Female | Male |
|  | Number |  | Number |  | Number |  |
| Married(1) | 4888840 | 4888760 | 5499670 | 5474235 | 5992875 | 5956290 |
| Single(2) | 1913030 | 2377645 | 2129840 | 2646580 | 2356615 | 2898495 |
| Widowed | 752895 | 191130 | 853900 | 189665 | 958135 | 199535 |
| Divorced | 100760 | 74360 | 183505 | 119035 | 297290 | 202845 |
| Total | 7655525 | 7531895 | 8666915 | 8429515 | 9604915 | 9257165 |
|  | Per cent |  | Per cent |  | Per cent |  |
| Married | 63.9 | 64.9 | 63.5 | 64.9 | 62.4 | 64.3 |
| Single | 25.0 | 31.6 | 24.6 | 31.4 | 24.5 | 31.3 |
| Widowed | 9.8 | 2.5 | 9.9 | 2.2 | 10.0 | 2.2 |
| Divorced | 1.3 | 1.0 | 2.1 | 1.4 | 3.1 | 2.2 |
| Total | 100.0 | 100.0 | 100.0 | 100.0 | 100.0 | 100.0 |

Notes: (1) Includes separated.
(2) 15 years of age and over.

Source: 1981 Census of Canada, Catalogue 92-901.

## Table D. Population of Canada by Province, 1981.

| Province | Both Sexes | Female | Male | Female as a % of total population |
|---|---|---|---|---|
| | Number | | | Per cent |
| Newfoundland | 567680 | 281990 | 285690 | 49.7 |
| Prince Edward Island | 122510 | 61570 | 60940 | 50.3 |
| Nova Scotia | 847445 | 427870 | 419575 | 50.5 |
| New Brunswick | 696405 | 350400 | 346000 | 50.3 |
| Quebec | 6438400 | 3266205 | 3172195 | 50.7 |
| Ontario | 8625110 | 4378320 | 4246790 | 50.8 |
| Manitoba | 1026245 | 519730 | 506510 | 50.6 |
| Saskatchewan | 968310 | 482235 | 486075 | 49.8 |
| Alberta | 2237725 | 1094505 | 1143220 | 48.9 |
| British Columbia | 2744470 | 1379310 | 1365155 | 50.3 |
| Yukon | 23150 | 10975 | 12175 | 47.4 |
| Northwest Territories | 45740 | 21775 | 23965 | 47.6 |
| CANADA | 24343180 | 12274895 | 12068290 | 50.4 |

Source: 1981 Census of Canada, Catalogue 92-901.

Table E. Husband-Wife and Lone Parent Families, 1976 and 1981.

| Family Stucture | 1976 | 1981 | 1976 | 1981 |
|---|---|---|---|---|
| | Number | | Per cent | |
| All Families | 5727900 | 6324975 | 100.0 | 100.0 |
| Husband-Wife Families | 5168565 | 5610965 | 90.2 | 88.7 |
| Lone Parent Families | 559335 | 714010 | 9.8 | 11.3 |
| Female Head | 464345 | 589825 | 8.1 | 9.3 |
| Male Head | 94990 | 124175 | 1.7 | 2.0 |

Sources: Canada Year Book, 1980-81.
1981 Census of Canada, Catalogue 92-905.

Table F. Average Number of Persons and Average Number of Children per Family, 1971, 1976 and 1981.

| YEAR | Average number of persons per family. | Average number of children per family(1). |
|---|---|---|
| 1971 | 3.7 | 1.7 |
| 1976 | 3.5 | 1.5 |
| 1981 | 3.3 | 1.3 |

Notes (1) Children 24 years of age and under.

Sources: 1971 Census of Canada, Catalogue 93-718.
1976 Census of Canada, Catalogue 93-821.
1976 Census of Canada, Catalogue 92-823.
1981 Census of Canada, Catalogue 92-905.

## ARTICLE 1

> For the purposes of the present Convention, the term "discrimination against women" shall mean any distinction, exclusion or restriction made on the basis of sex which has the effect or purpose of impairing or nullifying the recognition, enjoyment or exercise by women, irrespective of their marital status, on a basis of equality of men and women, of human rights and fundamental freedoms in the political, economic, social, cultural,civil or any other field.

Article 1 defines "discrimination against women" as it is used in those articles of the Convention which oblige States Parties to eliminate such discrimination. It does not itself impose obligations on States Parties.

It is noted, however, that the definition of "discrimination" adopted by Canadian tribunals is similar to the above. Thus, on the basis of decisions of various Boards of Inquiry constituted under human rights statutes, it has been concluded that the following definition of "discrimination" is operative in Canada:

> If a definition of discrimination for the purpose of Canadian human rights legislation were extracted from these board decisions, it would be this: discrimination means treating people differently because of their race, colour, sex, and so on with the result that the complainant suffers adverse consequences, or a serious affront to dignity; the motive for the discriminatory treatment, whether occasioned by economic or social considerations and whether those considerations are soundly or fallaciously based, is irrelevant, except possibly in mitigation of the penalty. Identical treatment is not necessarily synonymous with equal treatment, because discriminatory results — offensive to the spirit of human rights legislation — may occur if identical treatment is suddenly imposed on those who cannot effectively utilize it, due to past patterns of prejudice and exclusion.*

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* Ian Hunter, "The Origin, Development and Interpretation of Human Rights Legislation" in The Practice of Freedom ed. R. St. J. MacDonald and John P. Humphrey (Toronto: Butterworths, 1979) p.84.

It is to be noted that the only human rights legislation in Canada to contain a definition of discrimination is the Quebec Charter of Human Rights and Freedoms, section 10 of which reads as follows:

> 10. Every person has a right to full and equal recognition and exercise of his human rights and freedoms, without distinction, exclusion or preference based on race, colour, sex, sexual orientation, civil status, religion, political convictions, language, ethnic or national origin, social condition or the fact that he is a handicapped person or that he uses any means to palliate his handicap.
>
> Discrimination exists where such a distinction, exclusion or preference has the effect of nullifying or impairing such right.

Sex as a prohibited ground of discrimination has been included in all Canadian human rights and employment/labour standards legislation since the early 1970's.

Marital status, on the other hand, was first included by Alberta in 1971. Saskatchewan (the last jurisdiction to include it in 1979) and Ontario possess the only definitions of marital status. Section 1(a) of the Regulations to the Saskatchewan Human Rights Code states that:

> 1.(a) "Marital status" means that state of being engaged to be married, married, single, separated, divorced, widowed or living in a common-law relationship, but discrimination on the basis of a relationship with a particular person is not discrimination on the basis of marital status.

The Ontario definition is similar except that it does not include the "state of being engaged to be married".

## ARTICLE 2

> States Parties condemn discrimination against women in all its forms, agree to pursue, by all appropriate means and without delay, a policy of eliminating discrimination against women ...:

Before turning to a consideration of Canada's implementation of each of the subarticles of Article 2, some remarks will be made by way of introduction about the general legal framework within which discrimination against women is prohibited in Canada.

In Canada, international treaty law is not automatically a part of the law of the land. Therefore, the Convention can not be directly invoked by Canadian women or enforced by Canadian tribunals. Rather, it is by means of measures taken within the domestic legal system that the Convention is implemented.

The major source of domestic legal protection against discrimination on the basis of sex is to be found in the Constitution of Canada. The Canadian Charter of Rights and Freedoms, which forms part of the Constitution of Canada, contains provisions relating to the principle of equality between the sexes. These provisions may be invoked by women to override laws and administrative practices which conflict with the principle of equality as guaranteed in the Charter. At the federal level, the Charter applies to the Parliament and government of Canada in respect of all matters within their jurisdiction, including matters relating to both Territories. At the provincial level, the Charter applies to the legislature and government of each province in respect of all matters within the authority of each legislature.

The Canadian Bill of Rights is not part of the Constitution of Canada, but it may be used to render inoperative federal laws which are inconsistent with it. One of the rights it guarantees is equality before the law and the protection of the law, without discrimination on the basis of sex.

The provincial and federal human rights acts/codes are important statutes implementing the Convention. The primary subject matter is discrimination, which is prohibited on various grounds, including sex, in regard to matters of employment, the provision of services, facilities and accommodation customarily available to the general public, and the provision of commercial premises or residential accommodation.

The remaining major group of statutes expressly prohibiting discrimination on the basis of sex and marital status are the labour codes/employment standards statutes which govern the conduct of terms and conditions of work. Such legislation will be discussed in the text under Article 11.

Article 2 of the Convention requires the prohibition of de facto discrimination as well as of discrimination per se. Thus, adverse treatment based on sex-linked characteristics such as height or pregnancy are prohibited. Adverse treatment on the basis of sex itself, or conduct which has an adverse effect predominantly on women is prohibited even if adverse treatment or effect is not the primary purpose of the conduct. The title of the Convention refers to the elimination of all forms of discrimination, and Article 1 defines "discrimination against women" in terms of conduct which has "the effect or purpose" of impairing women's exercise of human rights and fundamental freedoms on an equal basis with men.

For a discussion of the implementation of Article 2 by Ontario and Quebec, see Appendices I and II.

## PRINCIPAL STATUTES

### CANADA

Constitution Act, 1982.
Canadian Human Rights Act, S.C. 1976-77 c. 33.
Canada Labour Code, R.S.C. 1970, c. L-1 as am.
Canadian Bill of Rights, R.S.C. 1970, App. III.

### YUKON TERRITORY

Fair Practices Act, O.Y.T. 1978, c. F-2
Labour Standards Act, O.Y.T. 1978, c. L-1.

### NORTHWEST TERRITORIES

Fair Practices Ordinance, R.O.N.W.T. 1974, c. F-2.
Labour Standards Ordinance, R.O.N.W.T. 1974, c. L-1.

### BRITISH COLUMBIA

Human Rights Code of British Columbia, R.S.B.C. 1979, c. 186.
Employment Standards Act, S.B.C. 1980, c. 10.

### ALBERTA

Individual's Rights Protection Act, R.S.A. 1980, c. I-2.
Employment Standards Act, R.S.A. 1980 (supp.), c. E-10.1.

### SASKATCHEWAN

Saskatchewan Human Rights Code, S.S. 1979, c. S-24.1.
Labour Standards Act, R.S.S. 1978, c. L-1.

### MANITOBA

Human Rights Act, S.M. 1974, c. 65.
Employment Standards Act, R.S.M. 1970, c. E-110, as am.

### ONTARIO

Human Rights Code, S.O. 1981, c. 53.
Employment Standards Act, R.S.O. 1980, c. 137.

### QUEBEC*

Charter of Human Rights and Freedoms, R.S.Q. c. C-12.
An Act Respecting Labour Standards R.S.Q. c. N-1.1

### NEW BRUNSWICK

Human Rights Act, R.S.N.B. 1973, c. H-11, as am.
Minimum Employment Standards Act, R.S.N.B. 1973, c. M-12, as am.

### NOVA SCOTIA

Labour Standards Code, S.N.S. 1972, c. 10, as. am.
Human Rights Act, S.N.S. 1969, c. 11 as. am.

### PRINCE EDWARD ISLAND

Human Rights Act, S.P.E.I. 1975, c. 72.
Labour Act, R.S.P.E.I. 1974, c. L-1, as. am.

### NEWFOUNDLAND

Labour Standards Act, S.N. 1977, c. 52, as. am.
Newfoundland Human Rights Code, R.S.N. 1970, c. 262 as. am.

### JUDICIAL DECISIONS

Supreme Court of Canada

*The Attorney-General of Canada* v. *Lavell*; *Isaac et al*. v. *Bedard*, [1974] S.C.R. 1349, 23 C.R.N.S. 197, 11 R.F.L. 333, 38 D.L.R. (3d) 481.

*Bliss* v. *Attorney General of Canada*, [1979] 1 S.C.R. 185, [1978] 6 W.W.R. 711.

*R.* v. *Dudak* (1978), 41 C.C.C. (2d) 31, 3 C.R. (3d) 68, [1978] 4 W.W.R. 34.

Ontario Court of Appeal

*R.* v. *DiPaola*; *R.* v. *Palatics* (1978), 43 C.C.C. (2d) 199, 4 C.R. (3d) 121.

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* See Appendix II, The Report of Quebec, p. 2.

ARTICLE 2(a)

States Parties ... undertake:

(a) To embody the principle of the equality of men and women in their national Constitutions or other appropriate legislation if not yet incorporated therein, and to ensure, through law and other appropriate means, the practical realization of this principle;

The Canadian Charter of Rights and Freedoms is an integral part of the Constitution of Canada. It contains two provisions, sections 15 and 28, which relate to the embodiment of the principle of the equality between men and women in the constitution. Section 15(1) reads as follows:

> 15(1) Every individual is equal before and under the law and has the right to the equal protection and equal benefit of the law without discrimination and, in particular, without discrimination based on race, national or ethnic origin, colour, religion, sex, age or mental or physical disability.

Section 15 of the Charter will not come into effect until April 1985. The federal and provincial governments have undertaken to review all their legislation before that date so as to amend or repeal any provisions in which there is a reasonable likelihood of offence against s.15.

And section 28 reads as follows:

> 28. Notwithstanding anything in this Charter, the rights and freedoms referred to in it are guaranteed equally to male and female persons.

It should be noted that s.15, and perhaps s.28, are subject to the provisions of section 1 of the Charter:

> 1. The Canadian Charter of Rights and Freedoms guarantees the rights and freedoms set out in it subject only to such reasonable limits prescribed by law as can be demonstrably justified in a free and democratic society.

However, the recent case of Quebec Association of Protestant School Boards et al. v. A.G. Quebec et al. indicates that the courts will not allow this section to be invoked so as to limit unduly the nature of the rights set out in the remainder of the Charter. Thus, Deschênes C.J., of the Quebec Superior Court, said that the burden lies on those who invoke s.1 to prove that it is applicable, and that a limit is reasonable only if it is a proportionate means for achieving a legitimate objective.

The equality rights guaranteed under s.15 may be nullified under certain circumstances. Section 33(1) of the Charter gives Parliament or the legislature of a province the right to declare in a statute that it operates notwithstanding s.15. Section 33(1) reads as follows:

> 33(1) Parliament or the legislature of a province may expressly declare in an Act of Parliament or of the legislature, as the case may be, that the Act or a provision thereof shall operate notwithstanding a provision included in section 2 or sections 7 to 15 of this Charter.
>
> (2) An Act or a provision of an Act in respect of which a declaration made under this section is in effect shall have such operation as it would have but for the provision of this Charter referred to in the declaration.
>
> (3) A declaration made under subsection (1) shall cease to have effect five years after it comes into force or on such earlier date as may be specified in the declaration.
>
> (4) Parliament or a legislature of a province may re-enact a declaration made under subsection (1).
>
> (5) Subsection (3) applies in respect of a re-enactment made under subsection (4).

S.28 is not subject to the over-ride provision contained in s.33.

The Canadian Bill of Rights also contains a provision which might be regarded as embodying the principle of equality between men and women in appropriate legislation. Section 1(b) reads as follows:

> 1. It is hereby recognized and declared that in Canada there have existed and shall continue to exist without discrimination by reason of race, national origin, colour, religion or sex, the following human rights and fundamental freedoms, namely ...
>
> (b) the right of the individual to equality before the law and the protection of the law.

The enactment of human rights statutes provincially and federally further reaffirms the principle of the equality of women and men. The principle itself is explicitly stated in the preamble to the human rights codes of six jurisdictions. In two other jurisdictions the principle is stated in the purpose or in the objective of the act.

- Newfoundland is the only jurisdiction to use the phrase "the equal rights of men and women". The Preamble to the Newfoundland Human Rights Code uses the language of the United Nations Charter to reaffirm the Legislature's "faith in fundamental human rights, in the dignity and worth of the human person and in the equal rights of men and women".

- The legislatures of Alberta, New Brunswick, Nova Scotia and Prince Edward Island all recognize as a fundamental principle that all persons are equal in dignity and rights without regard to sex. New Brunswick and Prince Edward Island also include marital status as a ground of discrimination which should not interfere with equality of dignity and rights.

- The Preamble to the Ontario Human Rights Code states that "it is public policy in Ontario to recognize the dignity and worth of every person and to provide for equal rights and opportunities without discrimination that is contrary to law".

- One of the objectives of the Saskatchewan Human Rights Code is "to further public policy in Saskatchewan that every person is free and equal in dignity and rights and to discourage and eliminate discrimination". (s.3(b)).

- The Purpose of the Canadian Human Rights Act is to give effect to the principle that "every individual should have an equal opportunity with other individuals to make for himself or herself the life that he or she is able and wishes to have ... without being hindered in or prevented from doing so by discriminatory practices based on ... sex or marital status ..." (s.2(a)).

The "practical realization" of the principle of the equality of women and men is provided by the enforcement measures contained in the Charter, the Canadian and various provincial Bills of Rights and the eleven human rights acts.

In regard to the Canadian Charter of Rights and Freedoms, the provisions relevant to enforcement are s.24(1) of the Charter and s.52(1) of the Constitution Act, 1982 (of which the Charter comprises Part I), which provide as follows:

> 24(1) Anyone whose rights or freedoms, as guaranteed by this Charter, have been infringed or denied may apply to a court of competent jurisdiction to obtain such remedy as the court considers appropriate and just in the circumstances.
>
> 52(1) The Constitution of Canada is the supreme law of Canada, and any law that is inconsistent with the provisions of the Constitution is, to

> the extent of the inconsistency, of no force or effect.

In regard to the Canadian Bill of Rights, any laws inconsistent with it are thereby rendered inoperative. However, it must be noted that the equality clause, s.1(b), has been interpreted very narrowly by the courts. For example, it has been held not to render inoperative s.12(1)(b) of the Indian Act, according to which Indian women but not Indian men lose their Indian status upon marrying non-Indians.*

In regard to the eleven human rights acts, all legislation provides for the filing of complaints by individuals who believe they have been discriminated against. Complaints are investigated by the appropriate human rights commission. The nature of procedures and remedies pursuant to such legislation are discussed more fully under Article 2(c).

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* Indian status is defined by ss.11 and 12 of the Indian Act as being the condition of a person who, pursuant to the Indian Act, is registered as an Indian or is entitled to be so registered.

## ARTICLE 2(b)

States Parties ... undertake:

(b) To adopt appropriate legislative and other measures, including sanctions where appropriate, prohibiting all discrimination against women;

There are two major groups of statutes operative in the thirteen Canadian jurisdictions which, while they do not prohibit all discrimination against women, do protect most of the rights of women in employment and in the provision of services and facilities and of accommodation. These are the human rights acts/codes and the labour/employment standards acts/codes. This legislation will be the major topic discussed under Article 2(b).

Before examining these statutes more closely the issue of *de facto* versus *de jure* discrimination is assessed in relation to human rights legislation.

There has not yet been any clear resolution as to whether *de facto* discrimination is implicitly included in human rights provisions which are not specific in this regard. However, it is accepted in Canada that statutory ambiguities are to be resolved in a manner consistent with international obligations, and the possible relationship between Article 2 and *de facto* discrimination in human rights statutes may be a factor in the conclusion ultimately reached by Canadian courts on this important issue.

The question arises, in terms of the *Canadian Human Rights Act*, of whether *de facto* discrimination as well as discrimination *per se* is prohibited. Section 11(1) of the Act, which requires equal pay for work of equal value, is an express prohibition of *de facto* discrimination of a specific kind. Also, according to s.10 of the Act, it is a discriminatory practice for an employer or employee organization "to establish or pursue a policy or practice ... that deprives or tends to deprive an individual or class of individuals of any employment opportunities" on a prohibited ground of discrimination, including sex. Several tribunal decisions have concluded that s.10 does extend to *de facto* discrimination and these have not been challenged in court.

### 1 LABOUR/EMPLOYMENT STANDARDS ACTS/CODES

Statutes governing the terms and conditions of work are in force in all thirteen Canadian jurisdictions. (See Article 11 for more specific applications against the requirements of the Convention). They are variously termed employment standards acts, labour standards acts, labour codes and, in the Northwest Territories, *Labour Standards Ordinance*. Insofar as the employment rights of women are concerned, while all terms and conditions are required to be applied in a non-discriminatory manner, there are certain provisions specifically affecting women. These are the clauses relating to maternity leave (see Article 11.2(b)); to equal pay (see Article 11.1(d)); and to the exclusion of domestic workers (the majority of whom are likely to be women) from the protection afforded by the labour codes.

## 2 HUMAN RIGHTS ACTS/CODES

The prohibition of discrimination against women in the field of employment is a principal feature of provincial and federal human rights legislation. Protection against sex-based discrimination is afforded to women workers in the Territories by the Fair Practices Act and Fair Practices Ordinance. Employers may not refuse to employ or refuse to continue to employ any person because of her/his sex (amongst other proscribed grounds of discrimination such as age, marital status, race, colour, nationality, ancestry, creed, religious belief etc.). Nor may employers discriminate against any person or class of persons with respect to any term or condition of employment or differentiate adversely in relation to an employee because of that person's sex.

Domestic workers, most of whom are women, are not protected by the human rights acts of eight jurisdictions.

In addition to the clause prohibiting discrimination in employment, most human rights acts also prohibit discrimination in the following areas:

- provision of services and facilities;
- contracts;
- purchase of property;
- occupancy of commercial premises and/or housing accommodation;
- places to which the public is customarily admitted; and
- membership in professional/occupational associations and in trade unions.

Finally, it has been noted that in some jurisdictions, the human rights acts override legislation inconsistent with them.

> Only the human rights acts of Alberta (s.1(1)), Quebec (ss.51 and 52), Prince Edward Island (s.1(2)) and Saskatchewan (s.44), provide specifically that the human rights acts override any inconsistent legislation, although the Alberta, Quebec and Saskatchewan provisions declare that this is not to apply where the latter contains a clause that it is to apply notwithstanding the human rights legislation.*

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* Revisions made to the Ontario Human Rights Code in 1981 include a clause giving the Code primacy over other Acts except where such Acts specifically provide for application "notwithstanding this Act" (s.46(2)).

> In addition, section 13(1) of the Nova Scotia Act provides that any regulation which restricts the rights or privileges of individuals or groups by reference to race, religion, creed, colour or ethnic or national origin, shall be void. In the absence of an overriding clause in the human rights statutes, conflicts between these and other legislation must be resolved by the rules of statutory interpretation. Without going into all the details available in the standard texts, two can be stated quite simply: (1) a later statute overrides an earlier statute, to the extent of any inconsistency; (2) unless the subsequent statute is general and the earlier one is specific.*

In addition to these two major kinds of anti-discrimination statute, legislation governing employment in the public/civil services usually contains a provision prohibiting discrimination on the basis of sex, amongst other grounds.

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* W.S. Tarnopolsky, Discrimination and the Law in Canada (Toronto: Richard de Boo Ltd., 1982) p.476.

## ARTICLE 2(c)

> States Parties ... undertake:
>
> (c) To establish legal protection of the rights of women on an equal basis with men and to ensure through competent national tribunals and other public institutions the effective protection of women against any act of discrimination;

If the equality rights guaranteed by the Charter are infringed, provision is made in s.24(1) for redress within the judicial system.

> 24.(1) Anyone whose rights or freedoms, as guaranteed by this Charter, have been infringed or denied may apply to a court of competent jurisdiction to obtain such remedy as the court considers appropriate and just in the circumstances.

Any woman in Canada who has reasonable grounds to believe she has been discriminated against in a matter covered by human rights legislation may file a complaint with the human rights commission within whose jurisdiction the discrimination occurred. In the Yukon Territory, the Northwest Territories, New Brunswick, Prince Edward Island and Newfoundland only the person who has been discriminated against may file a complaint. All other jurisdictions provide for the laying of complaints by other persons, either a third party and/or the appropriate Human Rights Commission.

In all jurisdictions, the Commission (or its staff) is empowered to try and settle the matter between the parties either during or after the Commission's investigation of the complaint. Conciliation with a view to reaching a settlement is mandatory in all jurisdictions other than Manitoba, Newfoundland and Canada.

Should conciliation attempts fail to reach a settlement, provincial statutes provide for the appointment of a board of inquiry. In the two territories, it is the responsibility of the investigating officer to recommend a course of action to the relevant Commissioner should conciliation fail. The federal Human Rights Commission is the only commission with sole discretion to appoint a Human Rights Tribunal.

With the exception of Quebec, human rights statutes give to the tribunal the power to recommend or to order rectification of the discriminatory practice. The general categories of rectification order are:

- to cease and desist;
- to make available the rights denied;
- to develop an affirmative action program;

- to award compensation for lost wages and for expenses; and
- to grant damages for humiliation.

In terms of enforcement of the tribunal's order, in the jurisdictions of British Columbia, Alberta, Saskatchewan, Manitoba and at the federal level, the order is enforceable as a court order once it has been filed with the appropriate superior court. In all other jurisdictions (with the exception of Quebec) the order is enforced under the relevant human rights statute (given that the act provides that contravention of the order is an offence).

The Canadian Human Rights Act provides for a review of the decision of any Tribunal comprising fewer than three persons by the appointment of a Review Tribunal. In addition, section 28 of the Federal Court Act also provides a method of reviewing decisions of the Canadian Human Rights Commission or of tribunals appointed pursuant to the Canadian Human Rights Act by means of application to the Federal Court of Appeal. The relevant portions of s.28 read as follows:

> 28.(1) ... the Court of Appeal has jurisdiction to hear and determine an application to review and set aside a decision or order, other than a decision or order of an administrative nature not required by law to be made on a judicial or quasi-judicial basis, made by or in the course of proceedings before a federal board, commission or other tribunal, upon the ground that the board, commission or tribunal
>
> (a) failed to observe a principle of natural justice or otherwise acted beyond or refused to exercise its jurisdiction;
>
> (b) erred in law in making its decision or order, whether or ot the error appears on the face of the record; or
>
> (c) based its decision or order on an erroneous finding of fact that it made in a perverse or capricious manner or without regard for the material before it.
>
> (2) Any such application may be made by the Attorney General of Canada or any party directly affected by the decision or order ...

Appeal procedures also exist under provincial law. In Saskatchewan for example, a decision or order of a board of inquiry may be appealed on a question of law to the Court of Queen's Bench.

## ARTICLE 2(d)

> States Parties ... undertake:
>
> (d) To refrain from engaging in any act or practice of discrimination against women and to ensure that public authorities and institutions shall act in conformity with this obligation;

This subarticle is interpreted to mean that governments shall themselves not discriminate against women and will ensure that the authorities administering statutes and institutions within their control shall not discriminate against women.

Although section 15 of the Charter has not as yet been interpreted by the courts, it is expected that, by virtue of the phrase "equal before ... the law", it will be held to apply to government in its administrative capacity as well as to government in its legislative capacity. Thus, persons in the federal, provincial and territorial public sectors will be subject to the Charter's anti-discrimination provisions as well as those of the appropriate human rights legislation where such acts bind the Crown.

Section 15 provides broad protection against discrimination in the sense of covering all matters and not just matters such as employment and the provision of services, facilities and accommodations as is the case with the human rights statutes. However, section 15 may be subject to section 1 of the Charter, according to which the rights and freedoms in it are subject to such reasonable limits as are demonstrably justified in a free and democratic society. In any event, it is "appropriate" legislation that States Parties are required to adopt by virtue of Article 2 of the Convention, and the notion of "appropriateness" would probably encompass that of reasonable limitations.

All human rights (anti-discrimination) legislation in Canada contains a provision stating that the act binds the government. Thus the clause prohibiting discrimination in the provision of "accommodations, services and facilities customarily available to the public" applies to services provided by government departments/ agencies in administering the statutes for which they are responsible.

In addition to the Charter provisions and the human rights statutes, most jurisdictions have two other kinds of legislation which can be viewed as helping to ensure that public authorities do not discriminate against women where it is illegal to do so. These are the Crown Proceedings Acts and the Ombudsman Acts.

Most jurisdictions have legislation (in the form of Crown Proceedings Acts) which permit the Crown to be sued for the wrongful acts of its servants and as a possible violator of regulations or statutes.

Under the legislation governing the appointment of ombudsmen, the principal duty of appointees is defined as investigating any decision or recommendation made including any recommendation made to a Minister, or any act done or omitted, relating to a matter of administration and affecting any person or body of persons in his/her or its personal capacity, in or by any Department or agency, or by any officer, employee or member thereof in the exercise of any power or function conferred on her/him by any enactment.

In addition, the legislation governing employment in the public sector generally contains a clause prohibiting discrimination against any person by reason of sex (amongst other grounds). At the federal level, this legislation is monitored by the Anti-Discrimination Directorate located in the Appeals and Investigation Branch of the Public Service Commission of Canada.

> The Branch investigates complaints alleging discrimination in the Public Service from both employees and applicants for employment; plays the historic role of ombudsman in dealing with complaints received from employees alleging harassment or unfair administrative treatment on the job; and investigates complaints of questionable staffing activities brought to its attention by any source.*

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* Public Service Commission of Canada, Annual Report 1981 (Ottawa: Department of Supply and Services, 1982).

## ARTICLE 2(e)

States Parties ... undertake:

(e) To take all appropriate measures to eliminate discrimination against women by any person, organization or enterprise;

Subarticle 2(e) is interpreted to require the elimination of discrimination in the private sector.

Insofar as human rights and labour standards statutes regulate the behaviour of private sector employers, then discrimination in employment is prohibited. And, as noted above in the discussion under Article 2(b), discrimination in the provision of services, facilities and accommodation is also regulated.

Provincial codes contain various exemptions to compliance such as those relating to religious and ethnic organizations, boarders living in the same dwelling as the owner, athletic activities and the employment of domestics, all of which could have the effect of discriminating against women individually or collectively depending on the particular provision.

Federal and provincial human rights commissions also devote resources to education, information and research to improve public awareness of human rights legislation and its ramifications.

## ARTICLE 2(f)

> States Parties ... undertake:
>
> (f) To take all appropriate measures, including legislation, to modify or abolish all existing laws, regulations, customs and practices which constitute discrimination against women;

By virtue of section 32(2) of the Canadian Charter of Rights and Freedoms, the equality rights guaranteed under section 15 will not come into effect until April of 1985. All governments are undertaking to review their legislation before that date so as to amend or repeal any provisions which may reasonably be held to offend against s.15. This is a large task, as it involves a review of legislation for de facto discrimination against women as well as discrimination strictly speaking on the basis of sex. Thus, any adverse treatment in legislation based on such factors as pregnancy or being a part-time employee will have to be reviewed.

Some jurisdictions have already passed omnibus legislation amending several statutes at the same time to eliminate adverse and unnecessary references to sex and ensure equality of the sexes in the language of the statutes. They are:

- Canada: The Statute Law (Status of Women) Amendment Act S.C. 1974-75-76 Chap. 66 (amended 10 major pieces of legislation).
- British Columbia:
  Status of Men and Women Amendment Act S.B.C. 1975, Chap. 73, which amended 27 statutes by removing references to adverse sexual distinctions;
- Nova Scotia:
  Statute Law Amendment Act S.N.S. 1977, Chap. 18; and
- Newfoundland:
  The Human Rights Anti-Discrimination Act S.N. 1979, Chap. 39.

Paragraph (f) of Article 2 further requires States Parties to take all appropriate measures to modify or abolish customs and practices which constitute discrimination against women. Most human rights legislation contain provisions designed to discourage and eliminate discriminatory practices. In addition, as noted in the introduction to Article 2, several jurisdictions reaffirm their government's commitment to the principle of equality between the sexes.

Alberta's Individual's Rights Protection Act contains the most complete version of the 'elimination of discriminatory practices' clause:

> 16(1) It is the function of the Commission
>
> (b) to research, develop and conduct educational programs designed to eliminate discriminatory practices related to race, religious beliefs, colour, sex, physical characteristics, age, ancestry or place of origin,

The Ontario Human Rights Code introduces another function for the Commission:

> 28(d) to develop and conduct programs of public information and education and undertake to eliminate discriminatory practices that infringe rights under this Act;

Neither Prince Edward Island (s.18) nor Nova Scotia (s.18) assigns the function of eliminating discriminatory practices to their respective Commissions. These bodies are, however, required to:

> develop a program of public information and education in the field of human rights to forward the principle that every person is free and equal in dignity and rights without regard to ...

after which the grounds of discrimination are listed. The Nova Scotia provision omits sex as a factor which ought not to affect the freedom and equality of the individual's dignity and rights.

The federal legislation (s.22(1)(g)) gives the Commission the duty of endeavouring" ... by persuasion, publicity or any other means that it considers appropriate to discourage and reduce discriminatory practices ...".

The Canadian Human Rights Commission may also "... review any regulations, rules, orders, by-laws and other instruments made pursuant to an Act of Parliament ..." for inconsistency with the purpose of the Act (s.22(1)(f)). The Ontario Code gives its Commission the function to "... examine and review any statute or regulation ... and make recommendations on any provision, program or policy, that in its opinion is inconsistent with the intent of this Act;" (s.28(e)).

All human rights commissions issue annual reports outlining their work over the previous year. The Canadian Human Rights Commission may also transmit to the Minister of Justice special reports which refer to and comment on "...any matter within the scope of its powers, duties and functions ..." (s.47(2)).

The discussion which follows is concerned with specific legislation which has already been identified as discriminatory. Only federal statutes are discussed.

## 1 THE INDIAN ACT, R.S.C. 1970, Chap. I-6

In recent years concerns have been raised that certain provisions of the Indian Act discriminate against women. The following sections have been noted in particular:

- s.12(1)(b), according to which Indian women lose their Indian status upon marrying non-Indians; conversely, s.11(1)(f) confers Indian status on spouses of Indian men);
- s.14, which deprives Indian women but not Indian men of membership in an Indian band if they marry non-members;
- s.10, which establishes the patrilineal line by providing that where a male person is added to or deleted from a Band List, his wife and minor children will also be added or deleted;
- s.68, according to which payments of an annuity or interest money may be reallocated to the husband of an Indian woman if she deserts him, even if it was with sufficient cause, whereas such payments may be reallocated to an Indian woman only if her husband has deserted her without sufficient cause; and
- s.109, according to which an Indian woman becomes enfranchised upon the enfranchisement of her Indian husband (with consequent loss of Indian status, pursuant to s.110), or upon marriage to a non-Indian.
- Section 11 establishes the rules for recognition of the status of Indian children. The status of legitimate children is determined by the father's status. The mother's status determines whether an illegitimate child can be registered. However, s.12(2) provides that the registration of an illegitimate child of a status Indian woman may be challenged on the grounds that the father is non-status.

Of the above provisions, s.12(1)(b) has received the most attention. In Attorney General of Canada v. Lavell, the Supreme Court of Canada concluded it did not contravene s.1(b) of the Canadian Bill of Rights, which guarantees the right to equality before the law. The Court said:

> ... equality before the law under the Bill of Rights means equality of treatment in the enforcement and application of the laws of Canada before the law enforcement authorities and the ordinary Courts of the land, and no such inequality is necessarily entailed in the construction and application of s.12(1)(b).

Section 12(1)(b) of the Indian Act has been considered by the UN Human Rights Committee in regard to the communication brought by Sandra Lovelace pursuant to the Optional Protocol to the International Covenant on Civil and Political Rights. Since Sandra Lovelace had lost her Indian status pursuant to s.12(1)(b) before the Covenant entered into force in Canada, the Committee did not reach a determination as to whether it contravened Article 26 on equality rights. However, it did conclude that in the circumstances of Sandra Lovelace's case, s.12(1)(b) violated Article 27, according to which persons belonging to ethnic minorities shall not be denied the right, in community with other members of their group, to enjoy their own culture. In a more recent communication to the Human Rights Committee, the issue has again been raised of whether s.12(1)(b) violates Article 26 on equality rights. This communication was initiated on April 5, 1981 by Paula Sappier Sisson, who lost her Indian status in 1979 upon marrying a non-Indian, after the coming into force of the Covenant in Canada. The Committee has not as yet communicated its views on this matter. Canada appreciates the concern of Indian women and, indeed, of many other persons in Canada and elsewhere in the international community, that s.12(1)(b) (and the other sections of the Indian Act referred to above) be found to constitute discrimination against women. Canada has also been desirous that the Indian community have a significant role to play in determining what new provisions on Indian status, band membership and enfranchisement the Indian Act should contain.

These issues are, however, matters of considerable controversy amongst Indian people. In order to expedite the amendment of the Indian Act, a Parliamentary Sub-committee on Indian Women and the Indian Act was formed on 4 August, 1982. This Sub-committee conducted five days of hearings in which it heard the testimony of forty-one witnesses, most of whom were Indian persons. The Sub-committee was addressed on 8 September, 1982 by the Honourable John C. Munro, Minister of Indian Affairs and Northern Development, who made the following statement:

> The Federal Government's position on the issue is perfectly clear. We are committed to bring in amendments to the (Indian) Act that will end discrimination based on sex. An integral part of that commitment is to proceed to the drafting of amendments only after full and open consultation with the Indian people.

On 21 September, 1982, the Sub-committee tabled its report. It recommended the amendment of the Indian Act so as to remove the discriminatory elements contained in sections 12, 14 and 109 (s.68 was not considered by the Sub-committee). The federal government is at present preparing legislation to accomplish this purpose.

## 2 UNEMPLOYMENT INSURANCE ACT, S.C. 1970-71-72, Chap. 48

Since 1971, the Unemployment Insurance Act has provided for payment of benefits to eligible workers whose earnings are interrupted by pregnancy. To qualify for these maternity benefits, the claimant must have 20 weeks of insurable employment in the previous 52. In addition, she must have 10 or more insurable weeks, weeks of benefit paid, or weeks prescribed by regulation, in the 20 weeks that immediately precede the 30th week before her expected confinement. This regulation is known colloquially as the "Magic-10" rule.

Benefits are payable, after a two-week waiting period, for a maximum of 15 consecutive weeks during the maternity period (26 week period beginning the 8th week before the expected date of birth and ending the 17th week after the week of birth).

Under section 46 of the Unemployment Insurance Act, a pregnant woman who does not qualify for maternity benefits is not entitled to receive any regular or sickness benefits during the maternity period. In Bliss v. Attorney-General of Canada, this provision was challenged as constituting a violation of the right to equality before the law without discrimination on the basis of sex, guaranteed in section 1(b) of the Canadian Bill of Rights. The Supreme Court of Canada held that the law conferred benefits rather than imposing penalties and therefore section 1(b) did not apply. The court also stated that any differential treatment afforded to child-bearing women by virtue of section 46 was based on pregnancy, not sex.

The Employment and Immigration Task Force on Unemployment Insurance in the 1980's recommended that special conditions for maternity benefits be eliminated. Removal of section 46 would end the inequities and inconsistencies described above. As a result, a pregnant claimant, as any other claimant, would have to prove either that she was capable of and available for work (to receive regular benefits) or that she was incapable of work (to receive sickness benefits).

## 3 THE INTERPRETATION ACT, R.S.C. 1970, Chap. I-23

Another federal provision which has caused Canadian women some concern is s.26(6) of the Interpretation Act, which states that "...words importing male persons include female persons ...". In recent legislation it is much less the case that federal laws are drafted using the pronoun "he". It is interesting to note, for example, that use of the third person pronoun is avoided in the new Canadian Charter of Rights and Freedoms.

The provisions discussed here are not necessarily the only ones requiring amendment to comply with the Canadian Charter of Rights and Freedoms. The legislative review now being carried out by the federal government may reveal that other provisions need to be amended.

## ARTICLE 2(g)

States Parties ... undertake:

(g) To repeal all national penal provisions which discriminate against women.

The federal government has recently amended the Criminal Code to meet concerns that the previous provisions on sexual offences reflected discriminatory values. These amendments came into effect in January of 1983. The former offences of rape, attempted rape, indecent assault on a female and indecent assault on a male have been replaced with three offences of sexual assault. The new offences provide equal protection to male and female victims, as well as making male and female perpetrators equally culpable. Under the old law, a husband could not be guilty of raping his wife, but under the new provisions either spouse may be guilty of a sexual offence against the other. Section 139 of the Criminal Code, calling for corroboration of testimony primarily in circumstances where the witness was the female victim of a sexual offence, has been repealed.

The new Criminal Code amendments clarify that a prostitute can be a male or female person. However, there are conflicting court decisions on whether customers as well as prostitutes can be charged with soliciting for the purpose of prostitution, pursuant to section 195.1. In R. v. Dudak, (1978), the British Columbia Court of Appeal held that section 195.1 did not apply to the male customers of female prostitutes. The decision was based on dictionary definitions of "prostitution" focussing on the sale rather than the purchase of sexual services. In the same year, the Ontario Court of Appeal, upheld the conviction of a male customer under section 195.1 (R. v. DiPaola).

On 6 May, 1982, an Order of Reference was made by the House of Commons to the Standing Committee on Justice and Legal Affairs to "take into consideration all legal methods of dealing with street soliciting for the purpose of prostitution and including (inter alia section 195.1 of) the Criminal Code of Canada ..."

Some commentators have stated the current Criminal Code offences prohibiting the sexual exploitation of young people do not offer equal protection to both sexes.

Young girls are protected by specifying a wide spectrum of offences. The following list outlines the offences and indicates the maximum penalty:

- section 146(1): sexual intercourse with female under 14 (life imprisonment);
- section 146(2): sexual intercourse with female 14-16 of previously chaste character (5 years);

- section 151: seduction of female 16-18 of previous chaste character (2 years);
- section 152: seduction of unmarried female under 21 of previous chaste character, on promise of marriage (2 years);
- section 153: sexual intercourse with step-daughter, etc. or female employee under 21 of previous chaste character and not more to blame (2 years);
- section 166: parent or guardian procuring defilement of female person; and
- section 167: householder permitting defilement of female under 18.

All persons are protected against buggery and acts of gross indecency up to the age of 21. However, girls over the age of 14 are protected against sexual intercourse only if they are of "previous chaste character". Boys of any age receive no protection against sexual exploitation by adult women which fall short of gross indecency. Section 168 prohibits corruption of a child apparently under 18.

The government is currently reviewing these provisions with a view to amending the Criminal Code to offer better protection to both young men and women against sexual exploitation by adults.

## ARTICLE 3

> States Parties shall take in all fields, in particular in the political, social, economic and cultural fields, all appropriate measures, including legislation, to ensure the full development and advancement of women, for the purpose of guaranteeing them the exercise and enjoyment of human rights and fundamental freedoms on a basis of equality with men.

Equalizing the respective statuses of women and men has been a stated concern of governments in Canada since the Royal Commission on the Status of Women in Canada was appointed on 16 February 1967 as a result of representations from women's groups. The Commissioners were given the mandate to "inquire into and report upon the status of women in Canada, and to recommend what steps might be taken by the Federal Government to ensure for women equal opportunities with men in all aspects of Canadian society". The Report of the Commission was the first comprehensive analysis of the status of women in Canada. As such it is worth some scrutiny as the focal point from which the current system now derives.

The seven Commissioners (5 women and 2 men) predicated their inquiry upon two general principles:

- everyone is entitled to the rights and freedoms proclaimed in the Universal Declaration of Human Rights;
- there should be equality of opportunity to share the responsibilities to society as well as its privileges and prerogatives.*

In addition, four particular principles were adopted by the Commission:

- women should be free to choose whether or not to take employment outside their homes;
- the care of children is a responsibility to be shared, by the mother, the father and society;
- society has a responsibility for women because of pregnancy and child-birth, and special treatment related to maternity will always be necessary;
- in certain areas women will for an interim period require special treatment to overcome the adverse effects of discriminatory practices.*

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* Royal Commission on the Status of Women in Canada, Report (Ottawa: Information Canada, 1970) p.xii.

It will be noted that the particular principles adopted by the Commission foreshadowed some of the specific provisions of Articles 4, 5, 11 and 12 of the Convention on the Elimination of All Forms of Discrimination Against Women.

The Commission's Report, tabled in the House of Commons on 7 December 1970, clearly defined the economic, political, social and legal status of Canadian women for the first time.

On 3 March 1971, the Prime Minister pledged the full support of the government in giving priority consideration to the Commission's recommendations. Actions to accomplish that goal were undertaken immediately. Amongst them were:

- the assignment to a Cabinet Minister of responsibility for co-ordinating government policy on the status of women, thus providing a focal point to which those interested in women's position in society could address their concerns and speeding up the legislative and administrative measures needed to implement recommendations;
- the appointment within the Privy Council Office, of a Co-ordinator, Status of Women, to initiate and support action on the Report;
- the naming of an Interdepartmental Committee (and five Working Parties) comprising representatives of relevant departments and agencies to be responsible for global examination of the Report and for recommending an implementation strategy to Cabinet;
- the establishment of an Equal Employment Opportunities Office in the Public Service Commission to ensure that women's recruitment to and promotion within the federal public service was commensurate with their abilities and ambitions; and
- the establishment of senior positions in four key ministries (National Health and Welfare, Manpower and Immigration, Treasury Board, Solicitor General's Office) in order to make available special expertise on the impact of departmental policies and programs on the status of women.

These five initiatives stemming from the work of the Royal Commission constitute the foundation of the structures within which status of women issues are addressed at the federal level in Canada today. In effect, the federal government began to take "appropriate measures ... to ensure the full development and advancement of women" ten years before Canada formally ratified the Convention on the Elimination of All Forms of Discrimination Against Women on 10 December 1981.

In terms of the legislative measures mentioned in Article 3, the process is an ongoing one as the comments under Article 2(f) in this report show.

- Since 1975 four jurisdictions (Canada, British Columbia, Nova Scotia and Newfoundland) have passed omnibus legislation to amend simultaneously several statutes containing provisions discriminatory on the basis of sex.
- All provincial governments and the federal government have enacted human rights legislation prohibiting sex-based discrimination in employment and provision of services,facilities and accommodation and promoting, in most cases, the principle of equal rights and opportunities for every person regardless of sex.
- All jurisdictions except the two Territories have established Human Rights Commissions to implement their human rights laws.
- All jurisdictions have some form of interpretation statute which explains that legislative texts denoting or relating to male persons (such as he, his etc.) are to be read as including female persons.
- As noted in the discussion under Article 2(a) the Canadian Constitution guarantees the rights and freedoms referred to in the Charter equally to both sexes.

The following text is divided into three parts. The first two describe the government structures which have been developed specifically to address the status of women at the federal and provincial/territorial levels respectively. The third part lists those international instruments, ratified by Canada, which bear upon the achievement of equal status between women and men.

## 1 THE FEDERAL GOVERNMENT MACHINERY RELATING TO STATUS OF WOMEN CONCERNS

For the sake of clarity this section is divided into three sections. The first describes the actual structures, the centres of responsibility, which have been developed to ensure that the concerns of women are considered by government. The second section deals with the mechanisms through which status of women concerns are integrated into the political, legislative and policy development process. And the third outlines the ways in which issues which are primarily of concern to women are brought into the governmental system for consideration.

### a Centres of Responsibility

The federal government's status of women machinery can be divided into three types according to the kind of function served; co-ordination, advice and the delivery of programs. The system is shown graphically in the accompanying diagram.*

At the political level, responsibility rests with the Minister Responsible for the Status of Women, a Cabinet post officially created in November 1972. The Minister ensures that the government's principles of elimination of discrimination and the promotion of equal opportunity for women in all areas of activity in Canada are applied in all government programs and policies. In addition, the Minister informs the government of the needs of women that result from changing societal structures, particularly those that may have been identified by the Advisory Council on the Status of Women, and s/he proposes new policies and programs. In discharging these responsibilities, the Minister also serves as a focus for those interested in expressing their concern about the status of women in Canada.

### i Co-ordination: Status of Women Canada

Co-ordination of government activities relating to the status of women is accomplished through Status of Women Canada, a central agency of government with a staff of 30 which assists the Minister Responsible for the Status of Women in executing her/his mandate.

Its own specific role is to ensure that federal legislation, policies and programs take into consideration the concerns of women. It recommends policy and program changes to federal bodies and provides liaison with federal departments/agencies, with provincial governments, advisory councils, with national women's organizations and with individual experts.

The agency is headed by a Co-ordinator having the rank of deputy head. The Co-ordinator and the Minister Responsible for the Status of Women do not have the power to make or enforce policies and directives on the status of women. They recommend constructive changes to legislative, policy and program proposals brought forward by other federal bodies and initiate proposals to meet unfilled needs.

Internationally, the agency works to ensure that the concerns of Canadian women are integrated into preparations for international meetings. Officers co-ordinate federal and provincial input to reports required by the United Nations and

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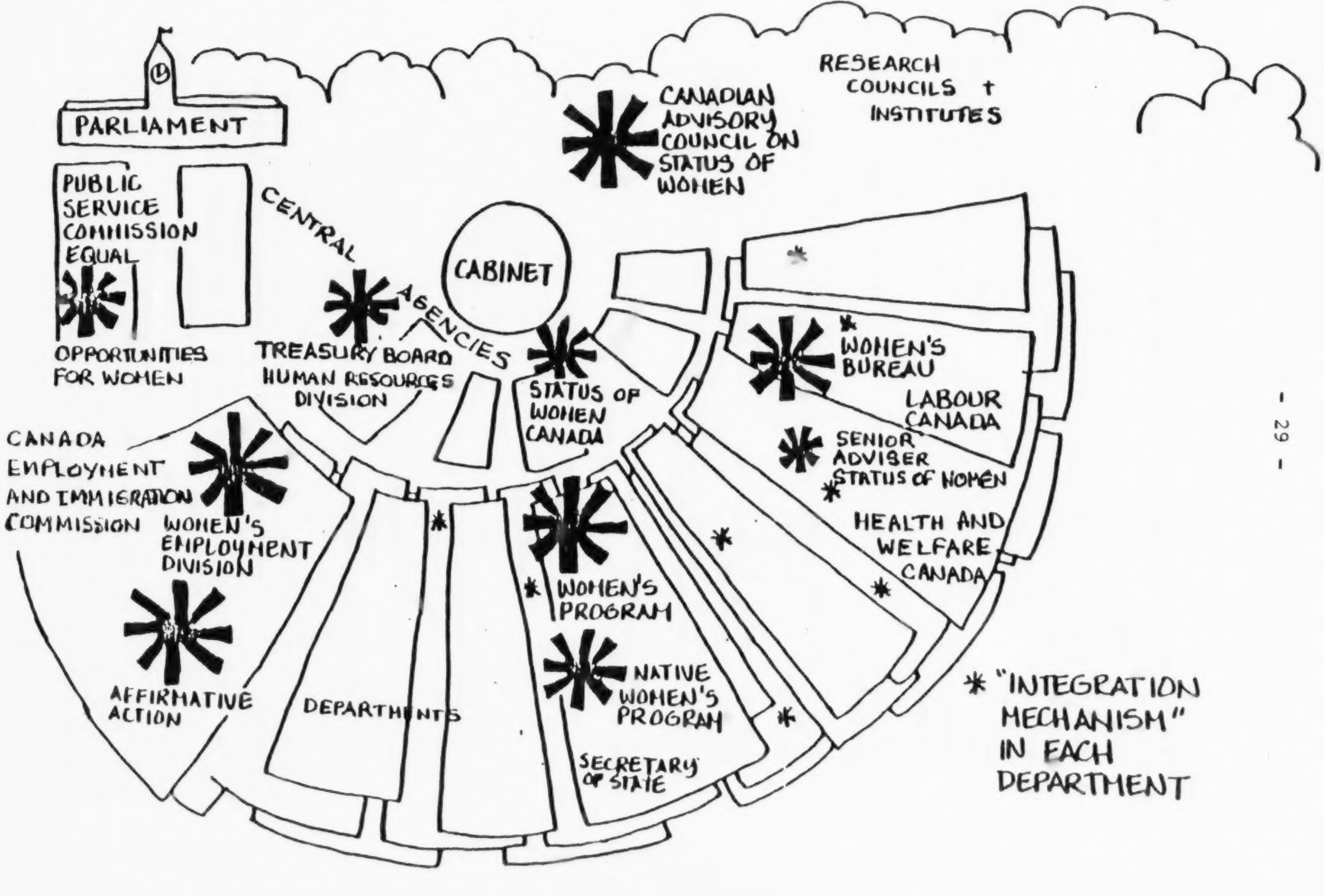
* Status of Women Canada, Federal Government Policy and Decision-Making Process (Ottawa: Status of Women Canada, 1981) p.9.

# STATUS OF WOMEN GOV'TAL MACHINERY


PARLIAMENT
PUBLIC SERVICE COMMISSION
EQUAL OPPORTUNITIES FOR WOMEN
CENTRAL AGENCIES
TREASURY BOARD HUMAN RESOURCES DIVISION
CABINET
CANADIAN ADVISORY COUNCIL ON STATUS OF WOMEN
RESEARCH COUNCILS + INSTITUTES
STATUS OF WOMEN CANADA
WOMEN'S BUREAU
LABOUR CANADA
SENIOR ADVISER STATUS OF WOMEN
HEALTH AND WELFARE CANADA
CANADA EMPLOYMENT AND IMMIGRATION COMMISSION
WOMEN'S EMPLOYMENT DIVISION
AFFIRMATIVE ACTION
DEPARTMENTS
WOMEN'S PROGRAM
NATIVE WOMEN'S PROGRAM
SECRETARY OF STATE
* "INTEGRATION MECHANISM" IN EACH DEPARTMENT

attend meetings of the UN Commission on the Status of Women.

ii Advice: Canadian Advisory Council on the Status of Women

The creation of the Canadian Advisory Council on the Status of Women (CACSW) was announced in Parliament in 1973 in response to one of the recommendations of the Royal Commission on the Status of Women.* The CACSW is made up of three full-time executive members and 27 part-time members, all appointed for three-year terms. They represent their respective regions and bring to the Council that particular perspective on the needs and problems of women.

The Council is an independent organization funded by the government:

- to bring before the government and the public matters of interest and concern to women; and
- to advise the Minister Responsible for the Status of Women on such matters relating to the status of women as the Minister may refer to the Council for its consideration or as the Council may deem appropriate.

The Council reports to Parliament through the Minister Responsible for the Status of Women.

The Advisory Council is assisted in its work by a full-time staff of 28. Numerous research reports and data sheets produced or contracted by the Council staff enable members to discuss issues at regular quarterly meetings and to formulate Council recommendations. Priorities for research and action are determined in consultation with women's groups and independent experts.

In addition to formulating recommendations, which are then forwarded to government, publicized and discussed with responsible officials, the Council presents briefs to government committees studying issues of particular concern to women.

Most materials produced are immediately available to the general public; the Council is known across the country as a leader in research and dissemination of information on women's concerns. Inquiries from the public are answered directly where possible, or directed to responsible government agencies.

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* The Canadian Advisory Council on the Status of Women takes its legal status from Order-in-Council P.C. 1976-781.

### iii Program Delivery in Federal Departments/Agencies

There are seven organizational units which have specific responsibility for delivering programs directly to Canadian women. They are:

| | | |
|---|---|---|
| WOMEN'S BUREAU, LABOUR CANADA | (Article 11.1) | 1954 |
| WOMEN'S EMPLOYMENT DIVISION, EMPLOYMENT AND IMMIGRATION CANADA | (Article 11.1) | 1972 |
| NATIVE WOMEN'S PROGRAM, DEPARTMENT OF THE SECRETARY OF STATE | (Article 7(c)) | 1972 |
| WOMEN'S PROGRAM, DEPARTMENT OF THE SECRETARY OF STATE | (Article 7(c)) | 1974 |
| NATIONAL FILM BOARD OF CANADA, STUDIO D | (Article 13(c)) | 1976 |
| AFFIRMATIVE ACTION DIRECTORATE, EMPLOYMENT AND IMMIGRATION CANADA | (Article 4.1) | 1978 |
| FITNESS AND AMATEUR SPORT WOMEN'S PROGRAM, HEALTH AND WELFARE CANADA | (Article 13(c)) | 1980 |

In addition, there are three units whose programs are directed at federally-employed women. They are:

| | | |
|---|---|---|
| . OFFICE OF EQUAL OPPORTUNITIES FOR WOMEN, PUBLIC SERVICE COMMISSION OF CANADA | (Article 7(b)) | 1971 |
| . OFFICE OF EQUAL OPPORTUNITY, CANADIAN BROADCASTING CORPORATION | (Article 7(b)) | 1975 |
| . PARTICIPATION PROGRAMS GROUP (formerly Equal Opportunity for Women) HUMAN RESOURCES DIVISION, TREASURY BOARD | (Article 7(b)) | 1976 |

The list names all such units existing at the end of 1982; the date at which they were established; and identifies the Convention article under which their functions are discussed.

## b Integration Mechanisms

The integration of status of women concerns into the process of policy and program development within the federal government is initiated by a decision of Cabinet, monitored by Status of Women

Canada and implemented at the department/agency level through designated "integration mechanisms".

### i Cabinet Decisions

A decision of Cabinet is formally constituted as a Record of Decision, an instrument which gives both mandate and funds to departments/agencies. They are sent to all Ministers, Deputy Ministers and central agencies and are transcribed into guidelines or directives. Decisions requiring changes in regulations or making senior appointments are accomplished through Orders-in-Council, a form of subordinate legislation having the force of law. The major Cabinet Decisions and Orders-in-Council affecting the improvement of women's status* have been:

| | |
|---|---|
| 1967 | Appointment of the Royal Commission on the Status of Women in Canada |
| 1972 | Equal Advancement Opportunities for Female Public Servants in Departments/Agencies |
| 1973 | Appointment of the Advisory Council on the Status of Women |
| 1974 | Equal Employment Opportunities for Women Employees of Crown Corporations |
| 1974 | International Women's Year Activities |
| 1975 | Equal Opportunities for Women Program |
| 1976 | Establishment of the Office of the Co-ordinator, Status of Women |
| 1976 | Federal Contracts Program |
| 1976 | Integration of Status of Women Concerns |
| 1977 | Voluntary Private Sector Affirmative Action Program |
| 1978 | National Plan of Action on the Status of Women |
| 1982 | Sex-Role Stereotyping in Government Communications |

### ii Status of Women Canada (SWC) and the National Plan of Action

As noted earlier, the basic mandate of Status of Women Canada is to monitor all legislation, policies, programs and other activities of the federal government in all fields to ensure that the concerns and needs of women are taken into consideration.

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* The Women's Bureau, Labour Canada, was established by decision of the Minister of Labour in 1954.

As a result of its lead role in status of women concerns, SWC has been responsible for developing a National Plan of Action for Canada. A contribution to the UN World Plan of Action, the document lists a series of commitments to change in areas under federal jurisdiction. The Introduction notes that the Government of Canada endorses three basic principles to realize equality between women and men.

- All persons should enjoy equal rights, opportunities and responsibilities, without regard to differences of sex and marital status, and these rights should be protected by law.
- Both women and men should have the opportunity to make free and informed choices about how they live. Therefore, neither laws, nor society should impose sex-stereotyped roles on women or men.
- There shall be no special treatment on the basis of sex, with two exceptions: measures relating to maternity, and short-term measures to reduce or eliminate disadvantages suffered by women due to past discrimination.*

The implementation of the National Plan of Action is monitored annually by Status of Women Canada. Departments/ agencies are required to submit annual reports for this purpose.

### iii Department/Agency Integration Mechanisms

The 1976 Cabinet Decision concerning integration of status of women concerns required each department/agency of the federal government to establish a mechanism to ensure that policy relating to the status of women was integrated into general departmental policy. A clear distinction was required to be initiated and maintained between the policy integration mechanism and the mechanism concerned with equal opportunities for women employees. The Cabinet decision was intended to sensitize departments/agencies to the wide range of issues affecting women.

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* Status of Women Canada, Towards Equality for Women (Ottawa: Supply and Services Canada, 1979) p.9.

The size and form of the mechanism was to be decided by the department/agency. The following features were, however, mandatory:

- a direct reporting relationship with senior levels within the department/agency;
- the mandate to provide direct policy advice;
- and access to all necessary information.

The person or the committee in whom the function is vested has no actual programs to run or any advisory function beyond the particular department/agency.

Implementation of this initiative is still in progress. Some difficulty has been experienced in getting departments/agencies to distinguish between integration mechanisms and those procedures which govern the equal opportunities program.

As an example of how status of women issues are considered within the context of overall departmental responsibilities, this document will describe the system now in place in Health and Welfare Canada.

Health and Welfare Canada has had an Adviser responsible for the Status of Women since 1973. It is the key advisory and coordinating position responsible for the development, continuous assessment, implementation and integration of a wide range of policies and programmes to ensure the promotion and preservation of the health, social security and social welfare of Canadian women and their families. The Senior Adviser is responsible (1) for ensuring that a Departmental stance on the status of women's welfare and health is developed effectively from initial problem identification, the formulation of alternative policy options and implementation plans; (2) for advising the Deputy Minister on recommended policy options; and (3) for gaining the acceptance and implementation of policy decisions within the various Departmental programs and with other departments, agencies and jurisdictions having a role in national programs directly or indirectly influencing the status of women's welfare and health. Related to the second role is that of reviewing policy and program recommendations arising from other Departments and outlining choices and consequences for the benefit of the Minister, who, in collaboration with the Minister Responsible for the Status of Women carries responsibility for extensive health and welfare matters including pensions, day care, family violence/wife assault, women's health and income security.

In 1977, the Department established a standing Advisory Committee on Status of Women Concerns to ensure effective cooperation by all Branches in the achievement of Departmental and federal goals and to encourage the assumption by Branch managers of responsibility for matters under their jurisdiction. The Senior Adviser, Status of Women, chairs the Committee and directs its activities for an integrated Departmental thrust. Her office, which comprises five persons, also serves or has served as the strategic coordination centre and secretariat for this Advisory Committee, a Women's Health Research Committee and a Reproductive Health Task Force and a National Task Force on Family Violence/Wife Abuse. An important dimension of the Senior Adviser's role is educational and interpretive both nationally and internationally.

Health and Welfare Canada which bears the most extensive responsibilities related to the National Plan of Action, has adopted a comprehensive Departmental Plan of Action and reports annually thereon. The Department provides more services and programs involving individual citizens than any federal department; it therefore carries significant responsibilities for implementation of many articles of the Convention.

The Senior Adviser, Status of Women, has been designated the Canadian responsibility centre for the Pan American Health Organization's Five-Year Plan of Action on Women in Health and Development.

## c New Issues

The consideration of new issues relating to women takes many forms before the actual process of policy development begins. Cabinet Ministers and/or parliamentarians may receive briefs from individuals, non-governmental organizations or special interest groups. Standing Committees of the House of Commons or the Senate may receive a special assignment to study a specific issue or a special committee of the House may be created. The resulting reports are usually widely disseminated and the matter is thereby brought before the general public. In this category are such reports as:

- Report of the Subcommittee on Indian Women and the Indian Act. House of Commons Standing Committee on Indian Affairs and Northern Development (1982).
- Wife Battering: Report on Violence in the Family. House of Commons Standing Committee on Health, Welfare and Social Affairs (1982).
- Work for Tomorrow: Report of the Parliamentary Task Force on Employment Opportunities for the '80s (1981).
- Child at Risk. Standing Senate Committee on Health, Welfare and Science (1980).

Within the government as a whole, Interdepartmental Committees (IDCs) are set up whenever a specific issue has implications for more than one department/agency. Such IDCs may be set up at the request of one or a group of Ministers. (Single issue, goal-oriented IDCs are not to be confused with ongoing IDCs dealing with broad areas such as human rights, etc.). Since 1980 task-oriented IDCs have studied (and continue to study) the following issues:

- family violence/wife battering;
- daycare;
- maternity benefits;
- sexual harassment;
- affirmative action; and
- victims of crime.

These are internal government committees aimed at initiating the process of policy and legislative development.

At the level of the individual department/agency, the task is more one of consultation with the public, interested groups and individuals in order to arrive at solutions to problems arising from a specific issue. To this end, departments/agencies may appoint commissions/committees of inquiry and task forces or mount public conferences. For example:

- the Minister of Labour, on the recommendation of the Women's Bureau, has appointed a Commissioner to study the impact of part-time work on the lives of Canadian workers;

- Employment and Immigration Canada named a task force to study the human resource requirements of the labour market to 1990;*

- the Multiculturalism Directorate of Secretary of State held a national conference on the emerging problems faced by immigrant women;** and

- Health and Welfare Canada sponsored a National Pensions Conference (containing a specific component addressing the issue of women and pensions) followed by a series of regional conferences on women and pensions.

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* Canada Employment and Immigration Commission, Labour Market Development in the 1980s (Ottawa: Supply and Services Canada, 1981).

** Department of the Secretary of State, The Immigrant Woman in Canada: A Right to Recognition (Ottawa: Supply and Services Canada, 1981).

In short, what this brief coverage of new issues implicitly shows is that government is giving increasingly more attention to the concerns of women.

## 2 GOVERNMENT MACHINERY IN THE PROVINCES AND TERRITORIES

Chapter 10 of the Report of the Royal Commission on the Status of Women in Canada comprised suggestions to the federal, provincial and territorial governments for a Plan of Action to set the process of equality in motion. Included were recommendations to set up implementation committees; human rights commissions; a federal Status of Women Council; and in each province and territory a "government bureau or similar agency concerned with the status of women which would have sufficient authority and funds to make its work effective."* The accompanying chart shows that, although governmental machinery directed towards improving the status of women concerns is not extensively developed in most of the provinces/territories, progress since the mid-seventies has been relatively steady.

The chart shows that the most numerous and active agencies have been the Women's Bureaus. While their main objective is to deal with employment-related matters, the comprehensive nature of their mandate is exemplified by such publications as This is the Law: A Legal Guide for Women (Women's Division, Saskatchewan Labour) and Laws for Albertans (Alberta Women's Bureau). (See Article 11 for more detailed description of the role of Women's Bureaus in the field of employment).

The Advisory Councils are paragovernmental agencies created to advise governments on matters relating to women and to bring before the public and the government matters of interest and concern to women. The purpose of the New Brunswick Advisory Council as stated in section 3 of the Advisory Council on the Status of Women Act serves to explain generally the objectives of such councils.

> 3(1) The Council shall
>
> (a) advise the Minister on such matters relating to the status of women that the Minister refers to the Council for its consideration, or that the Council deems appropriate; and
>
> (b) bring before the government and the public matters of interest and concern to women.

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* Royal Commission on the Status of Women in Canada, Report (Ottawa: Information Canada, 1970) p.392.

| JURISDICTION | MINISTERIAL RESPONSIBILITY FOR STATUS OF WOMEN | CO-ORDINATION OF STATUS OF WOMEN POLICIES | CENTRES OF RESPONSIBILITY FOR WOMEN RE EMPLOYMENT-RELATED MATTERS | ADVISORY COUNCILS ON THE STATUS OF WOMEN |
|---|---|---|---|---|
| Yukon Territory | Minister Responsible for the Status of Women 1978 | Women's Bureau (Ministry of Justice) 1978 | | Ministerial Advisory Council on Women's Issues TBA* 1982 |
| Northwest Territories | Minister Responsible for the Status of Women 1982 | Co-ordinator Status of Women TBA* 1983 | | |
| British Columbia | Minister of Labour | Deputy Minister for Women's Programs 1982 | Women's Office 1980 | |
| Alberta | Rotates among Ministers on a yearly basis | | Women's Bureau (Ministry of Culture) 1966 | |
| Saskatchewan | Minister in Charge of the Status of Women 1974 | Women's Division 1979 | Women's Division 1976<br>Women's Bureau 1964 | Saskatchewan Advisory Council on the Status of Women 1974 |
| Manitoba | Minister of Labour and Manpower 1971 | | Women's Bureau 1972 | Advisory Council on the Status of Women 1980 |
| Ontario | Minister of Labour/Provincial Secretary for | | Women's Bureau | Ontario Status of |

| JURISDICTION | MINISTERIAL RESPONSIBILITY FOR STATUS OF WOMEN | CO-ORDINATION OF STATUS OF WOMEN POLICIES | CENTRES OF RESPONSIBILITY FOR WOMEN RE EMPLOYMENT-RELATED MATTERS | ADVISORY COUNCILS ON THE STATUS OF WOMEN |
|---|---|---|---|---|
| Quebec** | La Ministre d'Etat à la Condition féminine | Comité ministériel permanent sur la Condition féminine<br>1979 | Secrétariat général à la Condition féminine | Conseil du statut de la femme<br>1973 |
| New Brunswick | Premier<br>1977 | Co-ordinator, Status of Women<br>1982 | Women's Employment Co-ordinator<br>1981 | N.B. Advisory Council on the Status of Women<br>1975/77 |
| Nova Scotia | Minister Responsible for the Status of Women<br>1978 | Consultant, Policy Board<br>1982 | | N.S. Advisory Council on the Status of Women<br>1977 |
| Prince Edward Island | Minister Responsible for the Status of Women<br>1975 | | | P.E.I. Advisory Council on the Status of Women<br>1975 |
| Newfoundland | Premier<br>1980 | | Women's Employment Consultant<br>1981 | Provincial Advisory Council on the Status of Women in Newfoundland and Labrador<br>1980 |

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* To be appointed

**See Appendix II, The Report of Quebec, p. 10-11.

(2) The Council, in carrying out its functions under subsection (1), may

(a) receive and hear petitions and suggestions from individuals and groups concerning the status of women,

(b) undertake research on matters relevant to the status of women and suggest research areas that can be studied by governments, voluntary associations, private business, and universities,

(c) recommend and participate in programmes concerning the status of women,

(d) propose legislation, policies, and practise to improve the status of women, and

(e) publish from time to time such reports, studies and recommendations as the Council deems necessary.

Of the twelve jurisdictions under consideration, six established advisory councils in the mid-seventies and two appointed councils in 1980. The Yukon Territory planned to appoint a Ministerial Advisory Council on Women's Issues in 1982. The Northwest Territories, British Columbia and Alberta have not established advisory councils.

Developments in the early years of the eighties indicate that governments have taken into account the need for co-ordination of policy concerning status of women issues.* In 1979, the Women's Division of Saskatchewan Labour was created by amalgamating the Women's Bureau and the Career Development Office of the Department of Finance. The unit's mandate was enlarged to include responsibility for improving the status of Saskatchewan women. In 1982 New Brunswick created the position of Co-ordinator, Status of Women, located in the Cabinet Secretariat. Nova Scotia assigned responsibility for reviewing all departmental proposals for their impact on women to a senior staff member of the Policy Board in 1982. In the same year British Columbia designated a Deputy Minister for Women's Programs amongst whose duties is that of representing women's interests at the senior level in government. The Deputy Minister is primarily mandated to provide a focal point for input to government by women, women's organizations, employers' and employees' organizations and the public on issues affecting women. The Northwest Territories expects to appoint a Co-ordinator, Status of Women, in 1983. Four governments are without a mechanism or person designated to co-ordinate status of women issues. They are the provinces of Alberta, Ontario, Prince Edward Island and Newfoundland. The Manitoba government has designated a Cabinet Minister to co-ordinate status of women issues.

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* See p. 11 of Appendix II, the Report of Quebec, for the situation in Quebec.

In terms of the location of ministerial responsibility, the two territories, Saskatchewan, Quebec*, Nova Scotia and Prince Edward Island have created a special portfolio by designating a Minister Responsible for/In Charge of the Status of Women. In New Brunswick and Newfoundland responsibility lies with the Premier. In Alberta ministerial responsibility for the coordination of status of women issues rotates annually among Ministers. In the remaining jurisdictions the responsibility is most likely to rest with the Minister of Labour.

The fact that some jurisdictions "do not have an adequate legislative policy, organizational or advisory base" or "might be considered less advanced than is desirable in addressing some of the more pressing women's issues ... (through) the establishment of institutions or organizational structures to deal with these issues" is admitted.** The first Federal/Provincial/Territorial Conference of Ministers Responsible for the Status of Women held in Ottawa on 10-11 May 1982 helped raise the level of information-sharing amongst Canadian jurisdictions. The fact that 3 of the 7 agenda items addressed the government role in developing policies and programs and initiating structures to improve the position of women, provides an indication that the pace of progress may be about to increase. In addition, compliance with the Canadian Charter of Rights and Freedoms, the filing of provincial/territorial plans of action under the World Plan of Action for the UN Decade for Women, and reporting on compliance with the standards of the Convention on the Elimination of All Forms of Discrimination Against Women all presage acceleration in the rate of change towards equal status for women.

## 3 CANADA'S OBLIGATIONS UNDER INTERNATIONAL INSTRUMENTS

Canada has ratified a number of international instruments which have the effect of "guaranteeing (women) the exercise and enjoyment of human rights and fundamental freedoms on a basis of equality with men." In order of ratification they are:

- Convention on the Political Rights of Women
  30 January 1957

- Convention on the Nationality of Married Women
  21 October 1959

- Convention concerning Discrimination in Respect of Employment and Occupation (ILO Convention 111)
  26 November 1964

- Convention concerning Equal Remuneration for Men and Women Workers for Work of Equal Value (ILO Convention 100)
  16 November 1972

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* See p. 11 of Appendix II, the Report of Quebec.

** From Introductory Remarks made by Official Representatives at the Federal/Provincial/Territorial Conference of Ministers Responsible for the Status of Women, Ottawa, 1982.

- International Covenant on Economic, Social and Cultural Rights
  9 May 1976
- International Covenant on Civil and Political Rights
  9 May 1976
- Optional Protocol to the International Covenant on Civil and Political Rights
  9 May 1976
- Convention on the Elimination of All Forms of Discrimination Against Women
  10 December 1981

To conclude this assessment of Canada's state of compliance with Article 3, it bears repeating that the passing of the Constitution Act, 1982 has placed the principle of equality between the sexes squarely at the foundation of the nation's legal, judicial and social systems.

## PRINCIPAL STATUTES

### CANADA

Constitution Act, 1982.

Canadian Human Rights Act, S.C. 1976-77, c. 33.

Statute Law (Status of Women) Amendment Act, S.C. 1974-75-76, c. 66.

### BRITISH COLUMBIA

Status of Men and Women Amendment Act, S.B.C. 1975, c. 73.

### NEW BRUNSWICK

Advisory Council on the Status of Women Act, S.N.B. Vol. I, c. A-31.

### NOVA SCOTIA

Status of Women Act, S.N.S. 1977, c. 3.

Statute Law Amendment Act, S.N.S. 1977, c. 18.

### NEWFOUNDLAND

Human Rights Anti-Discrimination Act, S.N. 1979, c. 39.

## DOCUMENTATION

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10 Years Later: An Assessment of the Federal Government's Implementation of the Recommendations Made by the Royal Commission on the Status of Women. Ottawa: Canadian Advisory Council on the Status of Women. 1979.

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Health and Welfare Canada

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Listing of Women's Groups: Canada 1982. Ottawa: Supply and Services Canada. 1982.

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A Right to Recognition: The Immigrant Woman in Canada. Part I. Report of the

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Towards Equality for Women. Ottawa: Supply and Services Canada. 1979.

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Laws for Albertans. Edmonton: Alberta Government Services. 1982.

SASKATCHEWAN
Saskatchewan Labour, Women's Division

This is the Law: A Legal Guide for Women. Regina: Saskatchewan Labour. 1981.

MANITOBA
Advisory Council on the Status of Women

Annual Report 1980-81. Winnipeg: Advisory Council on the Status of Women. n.d.

Department of the Attorney-General

Family Law in Manitoba. Winnipeg: Department of the Attorney-General. 1981.

NEW BRUNSWICK
Advisory Council on the Status of Women

Annual Report 1981-82. Moncton: Advisory Council on the Status of Women. 1982.

NOVA SCOTIA

Advisory Council on the Status of Women: Survival: A Source Book for Women (pamphlet)

Nova Scotia Association of Women and the Law

Understanding the Law: A Guide for Women in Nova Scotia. Halifax: Nova Scotia Association of Women and the Law. 1981

## ARTICLE 4.1

> Adoption by States Parties of temporary special measures aimed at accelerating *de facto* equality between men and women shall not be considered discrimination as defined in the present Convention, but shall in no way entail as a consequence the maintenance of unequal or separate standards; these measures shall be discontinued when the objectives of equality of opportunity and treatment have been achieved.

Measures aimed at accelerating equality between women and men are usually covered by the generic term 'affirmative action' in Canada. Consequently, while recognizing that the text of Article 4 is in effect an interpretation article authorizing the use of special measures, the following text outlines the current status of affirmative action in Canada.

Constitutional authority for special measures is to be found in the *Canadian Charter of Rights and Freedoms* and statutory authority in federal and provincial human rights legislation. Section 15(2) of the Charter states that equality before and under law and equal protection and benefit of law:

> ... does not preclude any law, program or activity that has as its object the amelioration of conditions of disadvantaged individuals or groups including those that are disadvantaged because of race, nationality or ethnic origin, colour, religion, sex, age or mental or physical disability.

As noted earlier, the equality provisions of the Charter come into effect in April 1985.

Canada's ratification of the ILO Convention Concerning Discrimination in Respect of Employment and Occupation (No. 111) should also be noted. Article 5.2 of that Convention states that special measures are not discriminatory.

Human rights legislation in the following jurisdictions: Canada (s.15); British Columbia (s.11(5)); Alberta (s.13); Saskatchewan (s.47); Manitoba (s.9); Ontario (s.13); Quebec (s.86)*; New Brunswick (s.13); Nova Scotia (s.19); and Prince Edward Island (s.19), permits the establishment of programs designed to remedy disadvantage or to promote the welfare of any group or class of individual. As the Ontario *Human Rights Code* states:

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* See Appendix II, the Report of Quebec p. 12

> 13.(1) A right under Part I (Freedom from Discrimination) is not infringed by the implementation of a special program designed to relieve hardship or economic disadvantage or to assist disadvantaged persons or groups to achieve or attempt to achieve equal opportunity or that is likely to contribute to the elimination of the infringement of rights under Part I.

A provision authorizing special programs is to be found in s.14 of the Northwest Territories Fair Practices Ordinance. The principle is not protected by statute in Newfoundland or in the Yukon Territory.

The undertaking of special measures in Canadian jurisdictions is at present a voluntary action, unless ordered as part of a complaint settlement. Saskatchewan has the power to order special programs on its own initiative, but to date has not exercised this power. In Alberta such programs require the approval of Cabinet.

At the federal level of government, initiatives supporting the concept of "temporary special measures" have been taken by three departments/agencies: the Canadian Human Rights Commission (CHRC); Canada Employment and Immigration Commission (CEIC), and the Treasury Board in conjunction with the Public Service Commission of Canada.

At the provincial level, several governments have initiated affirmative action programs within their respective public/civil services. Saskatchewan and Ontario both have systems in place to provide assistance to private sector employers wanting to develop affirmative action programs within their work forces.

## 1 FEDERAL MEASURES

### a Canadian Human Rights Commission (CHRC)

The Canadian Human Rights Commission has a specific mandate with regard to special programs under three provisions of the Canadian Human Rights Act. The Commission is directed:

- to encourage the adoption of special programs (s.15(2)(a));
- to respond to initiatives and requests from organizations within its jurisdiction requesting advice on special programs (s.15(2)(b));
- to recommend adoption of a special program as part of a settlement (s.38(1)); and
- to provide advice to any Tribunal considering the possibility of ordering a special program (s.41(2)(a)).

As an example of a special program voluntarily implemented by a federal employer, Correctional Service Canada since 1978 has recruited, trained and integrated women as correctional officers (guards) in male penitentiaries, employment in which women had never before been allowed to participate. The Commission has consulted with Correctional Services throughout the program and made recommendations for improvement in the program which now involves 68 women.

Arising from the Commission's recommendations concerning this program, studies have been undertaken to examine such issues as inmate privacy, job function and maternity policies.

### b Canada Employment and Immigration Commission (CEIC)

The main focus of the federal government's activity in the area of special measures lies with the Canada Employment and Immigration Commission. The federal Affirmative Action Program is part of a national strategy to improve the employment situation of groups in the Canadian labour market identified as having special employment needs. The Commission has an Affirmative Action Directorate the chief function of which is to promote the adoption, on a voluntary basis, of affirmative action plans by private sector firms. The CEIC defines affirmative action in employment as a comprehensive planning process adopted by an employer to:

- identify and eliminate discrimination in the company's employment systems and policies;
- remedy the effects of past discrimination; and
- ensure appropriate representation of target groups throughout the employer's organization.

Part of the affirmative action process involves the identification of systemic discrimination and the implementation of special programs to hasten the achievement of proportional representation.

Within the Commission, the Affirmative Action Directorate is responsible for two programs.

#### i The Affirmative Action Program

Established by Cabinet directive in 1977, the Affirmative Action Program promotes voluntary adoption of affirmative action in the private sector to improve the representation and distribution of members of three national target groups (women, indigenous people and disabled people) at all levels of the work-force. In addition, each region may designate one additional target group.

#### ii The Federal Contracts Program

Established in 1976 by Cabinet directive, the Federal Contracts Program promotes the adoption of affirmative action for women by Crown Corporations and by industries benefitting from government contracts.

The Affirmative Action Directorate provides the services of technical consultants to private sector employers and Crown Corporations as well as to federal government departments participating in the Public Service Affirmative Action Strategy. The Directorate promotes the concept of affirmative action to employers, unions and the general public. It also develops training materials, delivers training courses to employers, unions and government staff and undertakes research into affirmative action and related issues. In addition to the staff at National Headquarters in Ottawa, each of the CEIC's ten regional offices has affirmative action consultants on staff.

### c Treasury Board Secretariat

The Human Resources Division of Treasury Board is responsible for management of the Public Service Affirmative Action Strategy. Initiated in 1980 in three departments (Secretary of State, Treasury Board Secretariat and the Canada Employment and Immigration Commission) as a pilot project, the strategy involves the implementation of affirmative action to improve the representation of women, indigenous people and handicapped persons. In 1982, two additional departments, Environment Canada and the Public Service Commission of Canada, joined the pilot program.

The general objectives of affirmative action are to identify systemic discrimination through an analysis of employment statistics and systems; to design non-discriminatory employment practices; and to implement special measures, where necessary, to correct the under-utilization of the target groups. It is a systematic and results-oriented approach designed to increase the representation of women, indigenous people and handicapped persons in the Public Service. The specific objectives of the pilot affirmative action programs are to determine whether the model developed by the Canada Employment and Immigration Commission for private sector use is applicable to the Public Service and to develop a revised model, if necessary, for service-wide implementation.

## 2 PROVINCIAL MEASURES

There are indications that affirmative action has recently taken on even more significance as a special measure to provide women with equal access to employment opportunities. The Continuing Federal-Provincial Committee of Officials Responsible for Human Rights is carrying out a request made by Ministers early in 1981, to prepare and submit periodic reports on the status of affirmative action and special support programs across Canada.

### a Saskatchewan

The Saskatchewan Human Rights Commission proposed regulations defining a "special program" in April of 1980. Procedures for approving such programs are already in place, and several programs concerning women have been approved. For example, an approval was granted for the Southern Urban Native Teacher Education Program (August 1980) and the Northern Teacher Education Program (September 1981) in order to train people of Indian ancestry to achieve a "Standard A" teaching certificate. A high proportion of the teacher population has traditionally been women, and these programs will increase employment opportunities for native women.

Special program approvals have also been granted for a Pre-Trades Training Program for women at Regina Plains Community College (October 1981) and for Pre-Employment Trades Exploration for Women at Natonum Community College in Prince Albert (March 1982). These programs are designed to increase the participation of women in traditionally male-dominated trades by providing exposure to a variety of non-traditional trades.

As well, Saskatchewan Oil and Gas Corporation (May 1982) and Saskatchewan Telecommunications (October 1982) have received approval for special programs directed toward reducing employment disadvantages experienced by women, persons with physical disabilities, and persons of Indian ancestry. Each of the programs contains comprehensive remedial and special measures to remove barriers which have resulted in the under-representation of members of the three target groups in their workforces. The special measures directed toward women will include, amongst other measures, on-the-job training or special training to encourage upward mobility in the workplace, a corporate policy proscribing sexual harassment in the workplace, special awareness of the problems facing women and an active outreach recruitment program.

Saskatchewan has undertaken an affirmative action program to increase the representation of women in middle and senior management in the provincial government. The chart below shows significant progress made in a 15-month period.

DISTRIBUTION OF WOMEN IN MIDDLE AND SENIOR MANAGEMENT
IN 23 SASKATCHEWAN GOVERNMENT DEPARTMENTS
31 January, 1981 - 30 April, 1982

| | January 1981 | | | April 1982 | | |
|---|---|---|---|---|---|---|
| Class | Total Positions | Total # Women | % of Women | Total Positions | Total # Women | % of Women |
| Senior | 366 | 14 | 3.8 | 376 | 28 | 7.4 |
| Middle | 772 | 74 | 9.6 | 758 | 114 | 15.0 |
| Total | 1,138 | 88 | 7.7 | 1,134 | 142 | 12.5 |

Women's Division, Saskatchewan Labour has established a management training program for women in government. Currently, about 55 women are participating in the program. Approximately 10% of the participants have received promotions since the program began in the fall of 1981.

## b Manitoba

In December 1982 the Manitoba Cabinet approved a policy to establish affirmative action within the civil service of the province as well as in the major crown corporations. One of the target groups addressed by the policy is women. The policy ensures that, as an employer, the government is committed to representation of women at all levels and occupations within the civil service. The administration of the policy will be through a joint union/management structure.

## c Ontario

The promotion of "temporary special measures" among employers in Ontario is conducted by the Affirmative Action Consulting Service of the Women's Bureau, Ontario Ministry of Labour. Employers are encouraged to adopt, on a voluntary basis, affirmative action programs for their female employees.

In order to monitor the effectiveness of the voluntary affirmative action approach, the Consulting Service conducts annual surveys of Ontario employers with whom the Service has had varying degrees of contact. The most recent survey for which results are available, (1980), was based on a questionnaire mailed to 309 employers of whom 136 (44%) responded. Almost half of the respondents (65 or 47.8%) recognized the need for special measures to provide equal employment opportunities for their women employees and indicated some involvement in affirmative action.

The Government of Ontario's affirmative action policy directed towards its female employees is described fully in the Report of Ontario. The aim of the policy is to raise the participation level and to diversify the occupational distribution of women employed by the government. The policy has been in effect since 1974 and is monitored through the Women Crown Employees' Office (WCEO).

Within each individual ministry/agency, the Affirmative Action Program is organized, developed and monitored by Affirmative Action Program Managers. The Program Managers are members of the Affirmative Action Council, an official body established by the Government in 1976 to provide a formal mechanism for communication between the Managers and the Director of the WCEO.

A revised Affirmative Action Directive, issued in 1980, established a process for numerical planning targets for all employee classification levels with less than 30% representation.

### d Quebec

See Appendix II, the Report of Quebec pp. 12-16.

### e New Brunswick

Affirmative action units have been established by the New Brunswick Electric Power Commission and the Department of Social Services. The objective in the first organization is to facilitate the integration of women, natives and handicapped persons into the Commission's workforce. In the case of the Department of Social Services, a Task Force has been established to formulate an Action Plan that will contain specific goals (and a timetable for achieving those goals) for increasing the number of women in training programs and in middle and senior management levels.

### f Nova Scotia

Nova Scotia was, in 1972, the first province to develop affirmative action programs in employment. The Nova Scotia Human Rights Commission recently signed its 24th affirmative action agreement.

## PRINCIPAL STATUTES

### CANADA

Canadian Human Rights Act, S.C. 1976-77, c. 33; ss. 15, 38, 41.
Constitution Act, 1982, s.15.

### NORTHWEST TERRITORIES

Fair Practices Ordinance, R.O.N.W.T. 1974, c. F-2, s.14.

### BRITISH COLUMBIA

Human Rights Code, R.S.B.C. 1979, c. 186, s.11(5).

### ALBERTA

Individual's Rights Protection Act, R.S.A. 1980, c.I-2, s.13.

### SASKATCHEWAN

Saskatchewan Human Rights Code, S.S. 1979, c.S-24.1, ss.2(o), 47, as am.

### MANITOBA

The Human Rights Act, S.M. 1974, c.65, s.9.

### ONTARIO

Human Rights Code, S.O. 1981, c.53, ss. 8, 13, 28.

### QUEBEC

Charter of Human Rights and Freedoms, R.S.Q., c. C-12, s.86.

### NEW BRUNSWICK

Human Rights Code, R.S.N.B. 1973, c.H-11, s.13.

### NOVA SCOTIA

Human Rights Act, S.N.S. 1969, c.11, s.19.

### PRINCE EDWARD ISLAND

Human Rights Act, S.P.E.I. 1975, c.72, s.19.

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Employment and Immigration Canada
Affirmative Action Technical Training Manual. Ottawa: Supply and Services Canada. 1982.

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### SASKATCHEWAN

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Affirmative Action Program Legal Provisions. Saskatoon: Saskatchewan Human Rights Commission. 1981.

Affirmative Action News. (Newsletter). Saskatoon: Saskatchewan Human Rights Commission. 1981, 1982.

### NOVA SCOTIA

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Affirmative Action (pamphlet).

Nova Scotia Human Rights Commission
Affirmative Action for Women(pamphlet).

1978-81 Summary of Activities. Halifax: Nova Scotia Human Rights Commission. 1982.

## ARTICLE 4.2

> Adoption by States Parties of special measures, including those measures contained in the present Convention, aimed at protecting maternity shall not be considered discriminatory.

Measures taken to protect women from discrimination on the grounds of maternity are discussed under Article 11.2.

Amendments to the Canadian Human Rights Act to confirm that special measures directed towards maternity are not discriminatory were introduced into Parliament on 17 December 1982.

ARTICLE 5(a)

> States Parties shall take all appropriate measures:
>
> (a) To modify the social and cultural patterns of conduct of men and women, with a view to achieving the elimination of prejudices and customary and all other practices which are based on the idea of the inferiority or the superiority of either of the sexes or on stereotyped roles for men and women;

The introduction of measures aimed at modifying social and cultural conduct derived from stereotypical views of women's and men's roles is a relatively recent development in Canada. (The somewhat narrower concept of elimination of sex-role stereotyping in school texts is a topic for discussion under Article 10(c)). The existence of stereotypes and their effect on the social status of women was noted in the first chapter, "Canadian Women and Society", of the Royal Commission's Report.

- The stereotype of the ideal woman has its effect upon Canadian women. It appears that many women have accepted as truths the social constraints and the mental images that society has prescribed, and have made these constraints and images part of themselves as guides for living.
- Stereotypes are perpetuated by the mass media. ...Although men as well as women are stereotyped, the results may be more damaging for women ...
- Stereotypes pass naturally from one generation to the next. ...The standards and models of behaviour taught either explicitly or by example in the family begin to affect boys and girls from their earliest childhood.*

The chapter concludes with the observation that "If women are to be able to make full use of their capabilities, help is needed from the whole society."

Eight years later women got some help from the National Plan of Action. Proposals outlined in the section entitled "Stereotypes - Changing the Image of Women" form the basis of and the impetus for the activities in the area of broadcast and print media and in government communications noted below.

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* Royal Commission on the Status of Women, Report (Ottawa: Information Canada, 1970) pp. 14-15.

The issue of stereotyped roles as it relates to women in the workforce was addressed comparatively early when governments established Women's Bureaus within Departments of Labour. (See Article 11.1). More recently, a number of initiatives have been directed at providing opportunities for women to train for and take jobs in occupations which have traditionally been the preserve of male workers. Important initiatives have also been taken to combat sexual harassment of women in the workplace.

Most governments in Canada have assigned to their Human Rights Commissions the duty of developing and conducting programs of public information and education designed to eliminate discriminatory practices based on sex (amongst other grounds). And, as noted earlier, the Human Rights Commissions also have the function of forwarding the principle of equality in dignity and rights and of furthering the principle of equality of opportunity.

## 1 ACTIONS RELATING TO THE BROADCAST MEDIA

The National Plan of Action endorsed a major initiative to combat sex stereotyping in its recommendation that the Minister of Communications ask the Canadian Radio-Television and Telecommunications Commission to "take such actions as are necessary to have ready by 1980 national standards and guidelines for the elimination of sex role stereotyping in the Canadian media under their authority" and further, to identify "a group to monitor on an on-going basis, Canadian television programs and advertisements for sexist content".* Those suggestions have resulted in the publication of two major studies on the representation of women in the broadcast media.

### a Canadian Radio-Television and Telecommunications Commission (CRTC)

The formation of the Task Force on Sex-Role Stereotyping in the Broadcast Media was announced on 28 September 1979 by the CRTC. The twenty-one members included four representatives from the advertising industry; four from private broadcasting as well as an appointee of the CBC; six representing the public at large; four CRTC Commissioners; and two ex officio members from the Canadian Advisory Council on the Status of Women. The Task Force's mandate was to develop guidelines to encourage the elimination of sex-role stereotyping in the broadcast media.

In September 1982, the Task Force's report, Images of Women, was published. It presented a wide-ranging program for eliminating sex-role stereotyping from broadcast media. It combined broadcast and advertising industry self-regulation with public accountability to improve the portrayal of women in Canadian broadcasting.

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* Status of Women Canada, Towards Equality for Women (Ottawa: Supply and Services Canada, 1979) p.28.

An action plan for the advertising industry, developed by the Task Force earlier, produced the following results:

- Canadian advertisers adopted nine positive action statements as guidelines for the elimination of sex-role stereotyping in broadcast advertising;
- Advertising Committees on Sex-Role Stereotyping were established by both the Advertising Advisory Board (AAB) and le Conseil général de la publicité (COGEP), to process public complaints about stereotyping in advertising; and
- an information campaign was launched to promote these committees. It included an information brochure and a film to help advertisers and others understand the nature of the problem.

An action plan to deal with sex-role stereotyping in broadcast programming on privately-owned radio and television stations has been developed by the Canadian Association of Broadcasters (CAB), in consultation with the Task Force. This program commits the Canadian Association of Broadcasters:

- to establish a committee to act on public complaints about sex-role stereotyping in programming;
- to amend its code of ethics to address the issue of sex-role stereotyping, to support the initiatives of the advertising industry, and to call upon members to adhere to the Task Force "Guidelines on Sex-Role Stereotyping in Advertising"; and
- to develop an educational program that includes sensitizing its members to the problem, holding a workshop on sex-role stereotyping at the next CAB convention, and informing the public about CAB efforts in the area of sex-role stereotyping.

### b Canadian Broadcasting Corporation (CBC)

In 1980 the CBC adopted a policy aimed at improving the role and status of women in its programming.

> The CBC accepts as part of its mandate the need to reflect in its programming the role of women in Canadian society and to examine its social and political consequences. The CBC believes that its programming should also contribute to the understanding of issues affecting women.

In applying this policy, CBC programming should:

- avoid the use of demeaning sexual stereotypes and sexist language;
- reflect women and their interests in the reporting and discussion of current events;
- recognize the full participation of women in Canadian society;
- seek women's opinions on the full range of public issues.

In 1982, a special report was released by the Office of the Co-ordinator, Portrayal of Women. The study was conducted to provide the CBC with objective documentation on the role, image and presence of women on both French and English television networks during prime viewing hours. Initiated as a result of pressure from women's groups, the study found that although a content analysis of CBC productions showed that the CBC appeared to meet the policy objectives noted above, there existed an imbalance in the numbers of women represented. That finding was held to be true for drama, comedy and variety programs as well as for news, public affairs and information programming.

These studies and recommendations by leading organizations within the broadcast industry can be characterized as having major potential to modify social conduct with a view to eliminating prejudices and practices based on stereotyped roles for women and men.

## 2 ACTIONS TO REMOVE/REDUCE SEX STEREOTYPING IN GOVERNMENT COMMUNICATIONS

Amongst the National Plan of Action's general recommendations were instructions to all government media groups to ensure that the portrayal of women not be restricted to traditional roles and to take into account that the audience for public information programs comprises a population that is half female.

### a Representative Depiction in Government Advertising

As a result, the Government Communications Guide, used by all departments/agencies in planning information campaigns, now contains a policy directive which reads as follows:

It is the policy of the Government that:

- the depiction of Canadians in all Federal Government advertising should be representative, to the extent feasible, as to sex, age, ancestry and ethnic origin and presence of handicap or disability, both nationally and on a regional basis where applicable, and should portray members of these groups in all aspects of Canadian life, as appropriate;
- all departments bear this policy in mind when instructing firms on particular advertising campaigns;
- the Advertising Management Group monitor compliance with this policy in reviewing the creative (material) for proposed campaigns; and
- the Advertising Management Group consult, in conjunction with departmental information directors as appropriate, with representatives of the handicapped and disabled, women, natives, visible ethnic minorities, youth and the elderly on the application of this policy.

### b Administrative Guidelines

In addition, Status of Women Canada, as part of its responsibilities under the National Plan of Action, has developed editorial guidelines to help eliminate sexual stereotyping in federal government communications. These guidelines were approved by Cabinet and issued as an administrative policy by Treasury Board in 1982. Their implementation will require all departments/agencies to screen publications and training materials with regard to sex stereotyping and other kinds of discriminatory elements. The purpose and scope of the policy are described as follows:

> The purpose of this chapter is to set forth the policy, general principles and basic guidelines for eliminating regressive terminology, demeaning depiction and unequal representation from all forms of government communications irrespective of whether they are created within, contracted for or purchased from outside the government.
>
> Sexual stereotyping affects both women and men. However, it has traditionally and consistently affected women more pervasively and negatively than it has men. Consequently, this chapter is aimed

> primarily at eliminating this type of stereotyping.*

Prior to the development of this government-wide policy, a number of departments/agencies had already drawn up their own editorial guidelines in an effort "to ensure that all material produced ... for both internal and external purposes, is free of sex-based discrimination and positive in its message to and about women."**

## 3 CANADA EMPLOYMENT AND IMMIGRATION COMMISSION (CEIC): WOMEN IN NON-TRADITIONAL OCCUPATIONS

The Canada Employment and Immigration Commission has made persistent efforts to enable women workers to move away from the traditionally female jobs in the service sector and to overcome the public perception of women as workers only in the service sector. (See Documentation under CEIC).

The Commission's initiatives in this area comprise active encouragement of women to take employment in and training for non-traditional jobs as well as funding employers to hire and train women in non-traditional jobs. Programs and services offered by the Commission to support the entry of women into non-traditional jobs include:

- the launching of a large-scale publicity campaign (television, newspaper and magazine advertising) to inform and encourage women to consider the full range of occupational choices before them;
- the introduction of training programs to enable women to move into the higher-paying jobs traditionally held by men through a special measure offering financial incentives to private sector employers who hire and train Women in Non-Traditional Occupations (WINTO).

Under the National Industrial Training Program/WINTO, an employer may be reimbursed 75% of a woman's training wage up to a set maximum, and may receive up to 100% of the costs of instructors' salaries, training equipment and material, and other related training costs. The purpose of this special measure is to:

- improve employment opportunities for women in jobs traditionally held by men with the effect of increasing women's employability and income potential;

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* Treasury Board Canada, Administrative Policy Manual, Chapter 484 "Elimination of Sexual Stereotyping" (Ottawa: Treasury Board Canada, 1982) p. 3.

** Canada Employment and Immigration Commission, Status of Women Editorial Guidelines (Ottawa: Canada Employment and Immigration Commission, 1980) p.1.

- assist employers in solving their present and future skill shortages, thereby helping to meet future labour market demands for trades and technical skills; and
- help overcome the public perception of certain jobs as being sex-role specific by giving more women the chance to disprove the traditional stereotypes.

Non-traditional jobs for women are defined for the purpose of this special measure as those in which women form 10% or less of the workforce. The non-traditional designation encompasses the skilled trades, the technical field and some management occupations (e.g. industrial mechanic, engineering technologist, sheet metal worker, computer programmer, advertising manager, etc.).

In consultation with provincial governments, CEIC offers services at community colleges or other training institutions to support the entry of women into non-traditional jobs by:

- developing and presenting courses to introduce women to traditionally male-dominated occupations;
- developing and presenting courses to prepare women for entry into trades training; and
- setting aside positions for women in training courses for a number of male-dominated occupations.

## 4 ACTIONS TO COMBAT SEXUAL HARASSMENT

In recent years, there has been an increased public awareness of the seriousness of sexual harassment. While always a widespread problem, the issue had not previously been a matter of public debate. Human rights commissions accept complaints of sexual harassment under the grounds of sex. For greater clarity some jurisdictions have amended their legislation to prohibit the practice.

Ontario amended its Human Rights Code in 1981 to prohibit harassment because of sex in accommodation and in the workplace. Harassment is defined as "engaging in a course of vexatious comment or conduct that is known or ought reasonably to be known to be unwelcome" (s.9(f)). In addition, the Code contains a provision guaranteeing the right to freedom from sexual solicitation (s.6(3)(a)).

> (3) Every person has a right to be free from,
>
> (a) a sexual solicitation or advance made by a person in a position to confer, grant or deny a benefit or advancement to the person where the person making the solicitation or advance knows or ought reasonably to know that it is unwelcome; or

(b) a reprisal or a threat of reprisal for the rejection of a sexual solicitation or advance where the reprisal is made or threatened by a person in a position to confer, grant or deny a benefit or advancement to the person.

The amended Quebec Charter of Human Rights and Freedoms which was passed 18 December 1982 but has not yet been proclaimed, includes a prohibition of harassment on all existing grounds, including sex.

Amendments to the Canadian Human Rights Act were tabled 17 December 1982 to include harassment generally as a discriminatory practice and to specify that sexual harassment is deemed to be harassment on a prohibited ground.

Labour Canada has proposed amending the Canada Labour Code to place the onus on employers to reduce the incidence of sexual harassment. In the spring of 1981, Labour Canada sponsored a nation-wide media compaign on sexual harassment in the workplace.

In addition, Treasury Board (in its capacity as federal government employer) has introduced a Personal Harassment Policy. The policy defines sexual harassment as behaviour generally comprising:

> ...offensive sexual comments, gestures or physical contact, either at or away from the usual workplace, that are objectionable or offensive, either on a one-time basis or in a continuous series of incidents. ... Sexual harassment, however, by definition is coercive and one-sided, and both males and females can be victims of it.

## 5 WOMEN AND HISTORY

Public perception of female roles in society has prevented women being recognized as major contributors to the development and thus the history of nations. Activities are now being developed in Canada to counter such discriminatory views and practices.

- The Persons Awards

  Five awards are made each year to women in recognition of outstanding contributions made towards improving the status of Canadian women. The Persons Awards were first made in 1979 to celebrate the 50th anniversary of the Privy Council decision giving women the legal right to be recognized as persons for the purpose of being appointed to the Senate of Canada.

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* Treasury Board Canada, Personnal Harassment at the Workplace (Ottawa: Supply and Services Canada, 1982) p. 2.

- Philatelic Commemorations

  Canada Post has recognized Canadian women's contribution to society through several special stamps series. For example, the International Women's Year stamp was released on July 14, 1975 and a group of stamps released March 6, 1980 depicted four prominent Canadian feminists.

- The Widening Sphere: Women in Canada, 1870-1940

  The Widening Sphere is documentary exhibition of the history of women in Canada first presented in 1982 by the Public Archives of Canada in collaboration with the National Library of Canada. The exhibition is accompanied and complemented by a program of films, "Canadian Women Filmmakers", prepared and presented by the National Film, Television and Sound Archives in conjunction with the Public Archives of Canada.

  As the Foreword to the exhibition's catalogue notes:

  > Canadian women waited many years to see their contribution to the development of our nation recognized. I hope this exhibition will help to make us all aware of how much we owe to our foremothers.

  An Epilogue concludes the catalogue with an observation on the slowness of social and attitudinal change.

  > The year this exhibition was put together saw Bertha Wilson sworn in as the first woman justice of the Supreme Court of Canada, only fifty-three years after the triumphant conclusion of the Persons Case. Why has it taken so long for a woman to reach this position?
  >
  > Perhaps the answer to this question may be related to the fact that the committee planning this exhibition has time and again been struck by the contemporary relevance of the items they selected. The shock of recognition is more disturbing than exciting because of the implicit comment it makes on the status and situation of women in Canadian society now. Without attempting to preach or to enforce some alien interpretation upon the record of the past, we believe that these documents have much to say that is meaningful to us today.*

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* Public Archives Canada and National Library of Canada, The Widening Sphere: Women in Canada, 1870-1940, Jeanne L'Espérance (Ottawa: Supply and Services Canada, 1982) p.63.

## DOCUMENTATION

### CANADA

Canada Employment and Immigration Commission

Pamphlets

- A Woman's Guide to Canada Employment Centre Programs and Services
- New Directions for Women
- Training Women in Non-Traditional Jobs
- Women Returning to Work

Review of Women's Participation in the Non-Traditional Occupations. Labour Market Development Task Force Technical Study 8. Leah Cohen. Ottawa: Supply and Services Canada. 1981.

Status of Women Editorial Guidelines. Ottawa: Employment and Immigration Canada. 1980.

Training Women in Non-Traditional Occupations. Direction and Guidelines for Implementation. Ottawa: Industrial Training Division, Employment and Immigration Canada. 1980.

Canadian Broadcasting Corporation

The Presence, Role and Image of Women in Prime Time on the English Network of the CBC. Report by PEAC Developments. Ottawa: Canadian Broadcasting Corporation. 1982.

La Présence, le rôle et l'image de la femme aux heures de grande écoute à la télévision du réseau français à Radio-Canada (The Presence, Role and Image of Women in Prime Time on the French Network of the CBC) Report by PEAC Developments. Ottawa: Canadian Broadcasting Corporation. 1982.

Canadian Radio-Television and Telecommunications Commission

Images of Women. Report of the Task Force on Sex-Role Stereotyping in the Broadcast Media. Ottawa: Supply and Services Canada. 1982.

Health and Welfare Canada
Guidelines for the Elimination of Sexual Stereotyping in Language and Visual Material. Ottawa: Equal Employment Opportunity Program, Health and Welfare Canada. 1982.

Public Archives Canada/National Library of Canada
The Widening Sphere: Women in Canada, 1870-1940. Jeanne L'Esperance. Ottawa: Supply and Services Canada. 1982.

Treasury Board Canada
Administrative Policy Manual, Chapter 484. Ottawa: Treasury Board Canada. 1982.

Personal Harassment at the Workplace Ottawa: Supply and Services Canada. 1982

MANITOBA

Women's Bureau
Career Selector (Series of Six Booklets on Career Information). Winnipeg: Department of Labour and Manpower. 1978.

NOVA SCOTIA

Department of Education
Careers for Women: Series of Seven Booklets of Career Information on NonTraditional Careers. Halifax: N.S. Department of Education. 1982.

ARTICLE 5(b)

> States Parties shall take all appropriate measures:
>
> (b) To ensure that family education includes a proper understanding of maternity as a social function and the recognition of the common responsibility of men and women in the upbringing and development of their children, it being understood that the interest of the children is the primordial consideration in all cases.

The principle which recognizes that the interest of the child is paramount is frequently found in Canadian legislation (see discussion under Article 16.1(d) and (f)). It is a policy common to all Canadian jurisdictions.

Family education is usually addressed within the framework of the curriculum guidelines developed by provincial governments through their ministries/departments of education. The idea of joint parental responsibility is frequently introduced in schools in an attempt to help students redefine sex roles in relation to child-raising and home-making.

As a participant in the High Level Conference on the Employment of Women of the OECD Member Countries, Canada subscribes to the principle enunciated in the Declaration on Policies for the Employment of Women that "men and women have the joint responsibility for the upbringing and care of children".

## ARTICLE 6

> States Parties shall take al appropriate measures, includin legislation, to suppress all forms o traffic in women and exploitation o prostitution of women.

Traffic in women and the exploitation of prostitution are prohibite in Canada. The most relevant provision of the Criminal Code in term of Article 6 is section 195. Reproduced in full below, it prohibits procuring or living off the avails of another's prostitution. A prostitute is defined in s.179 as "a person of either sex who engages in prostitution".

> 195.(1) Every one who
>
> (a) procures, attempts to procure or solicits a person to have illicit sexual intercourse with another person, whether in or out of Canada,
>
> (b) inveigles or entices a person who is not a common prostitute or a person of known immoral character to a common bawdy-house or house of assignation for the purpose of illicit sexual intercourse or prostitution,
>
> (c) knowingly conceals a person in a common bawdy-house or house of assignation,
>
> (d) procures or attempts to procure a person to become, whether in or out of Canada, a common prostitute,
>
> (e) procures or attempts to procure a female person to leave the usual place of abode in Canada, if that place is not a common bawdy-house, with intent that the person may become an inmate or frequenter of a common bawdy-house, whether in or out of Canada,
>
> (f) on the arrival of a person in Canada, directs or causes of that person to be taken to a common bawdy-house or house of assignation,
>
> (g) procures a person to enter or leave Canada, for the purpose of prostitution,
>
> (h) for the purposes of gain, exercises control, direction or influence over the movements of a person in such manner as to show that he is aiding, abetting or compelling that person to engage in or carry on prostitution with any person or generally,

> (i) applies or administers to a person or causes that person to take any drug, intoxicating liquor, matter, or thing with intent to stupefy or overpower that person in order thereby to enable any person to have illicit sexual intercourse with that person, or
>
> (j) lives wholly or in part on the avails of prostitution of another person,
>
> is guilty of an indictable offence and is liable to imprisonment for ten years.
>
> (2) Evidence that a male person lives with or is habitually in the company of prostitutes, or lives in a common bawdy-house or house of assignation is, in the absence of any evidence to the contrary, proof that he lives on the avails of prostitution.
>
> (3) No person shall be convicted of an offence under subsection (1), other than an offence under paragraph (j) of that subsection, upon the evidence of only one witness unless the evidence of that witness is corroborated in a material particular by evidence that implicates the accused.
>
> (4) No proceedings for an offence under this section shall be commenced more than one year after the time when the offence is alleged to have been committed.

Certain other ancillary activities are also prohibited under the Criminal Code. Sections 193 and 194 of the Criminal Code define offences related to the common bawdy-house, defined in s.179 as "a place that is kept or occupied or resorted to by one or more persons for the purposes of prostitution or the practice of acts of indecency". Section 193 makes the keeping of a common bawdy-house an indictable offence. Persons who are inmates, who are found without lawful excuse or who knowingly permit a place to be used as a common bawdy-house are punishable by summary conviction. Section 194 makes the transporting of persons to a common bawdy-house an offence.

PRINCIPAL STATUTE

CANADA

The Criminal Code, R.S.C. 1970,
Chap. C-34, as am.

## ARTICLE 7

> States Parties shall take all appropriate measures to eliminate discrimination against women in the political and public life of the country ...

Any discrimination that may be manifested against women in political and public life is the result of custom not legislation. Women in Canada have the same right as men to vote, to stand for election, to hold public office and to perform public functions. The fact that they are under-represented in Parliament and legislative assemblies; in municipal councils; on agencies, boards and commissions, in the judiciary, in the public service, in political parties, in trade unions and on the boards of private corporations reflects the persistence of social attitudes about the proper roles of women.

## ARTICLE 7(a)

> States Parties ... in particular, shall ensure, on equal terms with men, the right:
>
> (a) To vote in all elections and public referenda and to be eligible for election to all publicly elected bodies;

The right of Canadian women to vote and to be eligible for election is protected both constitutionally and by legislation. Section 3 of the Canadian Charter of Rights and Freedoms guarantees the democratic rights of Canadians to vote and to be eligible for election.

> 3. Every citizen of Canada has the right to vote in an election of members of the House of Commons or of a legislative assembly and to be qualified for membership therein.

And, as noted earlier, such rights are guaranteed equally to women and men by virtue of s.28.

All political jurisdictions have some form of Elections Act governing the candidacy and election of Canadians to the appropriate legislative body. Qualified voters resident in Saskatchewan and Quebec are further guaranteed "the right to vote in all elections" under s.8 of the Saskatchewan Human Rights Code, and s.22 of the Quebec Charter of Human Rights and Freedoms respectively.

Citizens over the age of 18 who are ordinarily resident in the relevant political jurisdiction have the right to vote. Those usually excluded from voting are electoral returning officers, judges, prisoners and mental patients. Election by universal and equal suffrage is conducted in a single round at least every five years using the uninomial (riding) system. Candidates for elected office are normally required to have the same qualifications as electors. The accompanying chart indicates the number of women currently sitting in Canadian legislatures.

MEMBERS OF LEGISLATURES BY JURISDICTION AND BY SEX: DECEMBER 1982

| JURISDICTION | MEMBERS Total/Women | CABINET MINISTERS Total/Women |
|---|---|---|
| CANADA | 282/16* | 35/2 |
| YUKON TERRITORY | 16/3 | 5/1 |
| NORTHWEST TERRITORIES | 22/2 | 7/0 |
| BRITISH COLUMBIA | 57/6 | 20/1 |
| ALBERTA | 79/5 | 30/2 |
| SASKATCHEWAN | 64/5 | 17/2 |
| MANITOBA | 57/7 | 18/3 |
| ONTARIO | 125/6 | 29/2 |
| QUEBEC | 122/8 | 27/2 |
| NEW BRUNSWICK | 58/3 | 23/3 |
| NOVA SCOTIA | 52/1 | 21/0 |
| PRINCE EDWARD ISLAND | 32/2** | 10/1 |
| NEWFOUNDLAND | 52/3 | 18/2 |
| TOTAL | 1018/67 | 260/21 |

Elections to local government office (municipal councils, school boards) are carried out under the authority of Municipal (Elections) Acts and Public School Acts. No Canada-wide survey exists of the number of women elected as municipal councillors or school board trustees. It is known, however, that women are better represented in local governments than at the provincial or federal levels of government. (See p. 21 of Appendix II, the Report of Quebec, for the situation in Quebec).

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* Speaker of the House of Commons is a woman.

** The Deputy Speaker of the legislature is a woman.

## PRINCIPAL STATUTES

### CANADA

Constitution Act, 1982.

Canada Elections Act, R.S.C. 1970, c. 14 (1st supp.).

### YUKON TERRITORY

Yukon Act, R.S.C. 1970, c.Y-2.

Electoral Districts Boundaries Act, O.Y.T. 1977, c.2.

Elections Act, O.Y.T.1977 (2nd session), c.3.

Yukon Council Act, O.Y.T. 1978 (1st session), c.2.

Plebiscite Act, C.O.Y.T. 1976, c.P-5.

Municipal Elections Act, C.O.Y.T. 1976, c.M-14.

### NORTHWEST TERRITORIES

Northwest Territories Act, R.S.C. 1970, c.N-22.

Council Ordinance, R.O.N.W.T. 1974, c.C-19.

Elections Ordinance, O.N.W.T. 1978 (3rd session), c.3.

Municipal Ordinance, R.O.N.W.T. 1974, c.M-15.

### BRITISH COLUMBIA

British Columbia Provincial Elections Act, R.S.B.C. 1979, c. 103.

Municipal Act, R.S.B.C. 1960, c.255.

### ALBERTA

Election Act, R.S.A. 1980, c. E-2.

Municipal Election Act, R.S.A. 1980, c. M-25.

School Election Act, R.S.A. 1980, c. S-5.

### SASKATCHEWAN

The Election Act, R.S.S. 1978, c. E-6.

The Local Government Election Act, S.S. 1982, c. L-30.1 (interim ed.).

The Rural Municipality Act, R.S.S. 1978, c. R-26.

The Saskatchewan Human Rights Code, S.S. 1979, c.S-24.1, s.8, as am.

### MANITOBA

The Elections Act, S.M. 1980, c.67.
The Public Schools Act, S.M. 1980, c.33.
The Municipal Act, S.M. 1970, c.100.
The Local Authorities Election Act, S.M. 1970, c.40.
The City of Winnipeg Act, S.M. 1971, c.105.
The Legislative Assembly Act, R.S.M. 1970, c.L-110.

### QUEBEC

Quebec Elections Act, R.S.Q. c. E-3*.
Referendum Act, R.S.Q. c. C-64.1*.

### ONTARIO

Election Act, R.S.O 1970, c.133.
Legislative Assembly Act, R.S.O 1970, c.235.
Municipal Elections Act, R.S.O. 1970, c.308.

### NEW BRUNSWICK

Elections Act, R.S.N.B. 1973, c.E-3.

### NOVA SCOTIA

Elections Act, R.S.N.S. 1967, c.83.
Municipal Elections Act, R.S.N.S. 1967, c.198.

### PRINCE EDWARD ISLAND

Elections Act, R.S.P.E.I. 1974, c. E-1.

### NEWFOUNDLAND

Election Act, R.S.N. 1970, c.159 (as am.).
Local Government (Elections) Act, R.S.N. 1970, c.217 (as am.).

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* See Appendix II, part II, Report of Quebec, pp. 20-21.

ARTICLE 7(b)

> States Parties ... in particular, shall ensure, on equal terms with men, the right:
>
> (b) To participate in the formulation of government policy and the implementation thereof and to hold public office and perform all public functions at all levels of government;

Two kinds of participatory rights can be distinguished in this subarticle: the right of access to the public service; and the right to perform all public functions. As noted earlier, women have equal rights with men to be employed in the public service and to be appointed to public office. But in the realization of these rights, as in many others, women are not represented on an equal basis with men.

## 1 GOVERNMENTS AS EMPLOYERS

Employment by the federal/provincial/territorial governments is authorized under either Public Service (Employment) Acts or Civil Service Acts. In general, such acts provide that appointments and promotions be based on selection according to merit. Discrimination on any of the usual proscribed grounds is prohibited. Some statutes authorize implementation of a system of preferential treatment for veterans. Veterans preference programs may have a negative impact on increasing levels of female participation. In some jurisdictions, public service employment is also subject to the provisions of human rights codes.

The lead role of the public sector in matters of equal employment opportunity is generally recognized. The federal and some provincial governments have taken measures to increase both the numbers of women they employ and their representation at the higher levels of the public service.

### a Federal Measures

Personnel management in the federal Public Service is governed by three main statutes: the Financial Administration Act, the Public Service Employment Act and the Public Service Staff Relations Act. The Government of Canada has delegated the responsibility for enforcing these acts to central agencies.

Under the terms of the Financial Administration Act, the Treasury Board issues policies in respect of human resource utilization, compensation, pensions and benefits, and staff relations. In its' role as the employer for the government, it represents departments in collective bargaining with public service unions. The bargaining mechanisms used are defined in the Public Service Staff Relations Act.

The Public Service Commission of Canada has been established by the Public Service Employment Act as an independent agency responsible to Parliament for the appointment of qualified persons to the Public Service or the appointment of qualified people from within the Public Service. Under the Act, the Commission is responsible for ensuring that merit, as determined by the Commission, is upheld in all staffing actions. This is accomplished by:

- the development and administration of open, visible processes and standards for selection of candidates for positions in the Public Service:
- the provision and operation of redress mechanisms for appointments which are challenged as violations of the merit principle; and
- the conduct of audits to evaluate the manner in which staffing authority has been exercised.

The Commission is also called upon to discharge other responsibilities:

- by Parliament, to enforce provisions of the Act concerning political activities of public servants and to ensure equality of access to the Public Service for all Canadians;
- by Treasury Board, to conduct various programs of training and development on a central need basis;
- by the Governor-in-Council, to investigate discriminatory treatment in the Public Service; and
- by departments and agencies, to advise and assist in the conduct of their training programs.

Subject to certain limitations and conditions, the Treasury Board Secretariat and the Public Service Commission may delegate certain personnel management powers to the deputy ministers of the various departments. Policies and guidelines set out the manner in which these powers are to be exercised throughout the Public Service.

Special legislation governs the administration of the Armed Forces and the Royal Canadian Mounted Police. The National Defence Act and the Royal Canadian Mounted Police Act determine management responsibilities relating to the establishment of working conditions of members of the forces.

The Canadian Forces consist entirely of volunteer members. Article 6.01 of the Queen's Regulations and Orders for the Canadian Forces states the qualifications for enrolment. The main provisions are that a person must be a Canadian citizen, be of good character, and have reached his/her seventeenth birthday.

Women are allowed into all trades and officer classifications with the exception of those involving the possibility of combat operations and the Roman Catholic Chaplain classification. Some of the trades and some of the officer classifications which are open to women must include a certain percentage of men.

The high proportion of cabinet directives and programs relating to the employment of women in government was noted in the discussion under Article 3. The Public Service Commission of Canada had, in the late sixties, requested that the position of women in public employment be compared with the position of men. First published in 1969, the resulting report focussed not just on the responsibility of the PSC but on all issues relating to the government's role as an employer of women. It also reprinted what are arguably the first policy guidelines in Canada on equal opportunity for women: "Equal Career Opportunity without Regard to Sex: A Preliminary Statement Issued by the Public Service Commission".*

Subsequent activities of the federal government are summarized below. Generally only equal employment opportunity measures are described. Discussion of affirmative action programs is included in the text under Article 4.1.

### i The Office of Equal Opportunities for Women, Public Service Commission of Canada

Established in 1971, the Office of Equal Opportunities for Women was one of the first tangible accomplishments resulting from the recommendations of the Royal Commission.

The objectives of the Office are:

- to raise the recruitment, promotion and participation rates of women with a particular emphasis on the mid-to senior management levels and to increase the number of women in training and development programs;
- to develop federal educational programs oriented towards the advancement of women and to provide a national information program on women's public sector employment;
- to provide advice and assistance to federal departments in the development and implementation of their EOW Action Plans;

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* Kathleen Archibald, Sex and the Public Service: A Report to the Public Service Commission of Canada (Ottawa: Information Canada, 1973) p. 211.

- to review all policies, practices, selection instruments and procedures of the PSC in order to ensure that they do not have a discriminatory impact on women and to ensure that they meet the objectives of the federal government; and
- to sensitize women and men to the obvious and the subtle forms of discrimination experienced by women public servants.

The participation, recruitment and promotion rates of women in the Public Service have shown improvement over recent years. However, several major difficulties exist with respect to equal opportunities for women; for example, the low representation in technical and scientific categories and in senior management as shown in the accompanying chart. The Public Service Commission is continuing to address these problems. The Office is a focal point for monitoring, synthesizing and publicizing public sector employment as an exemplar of equal employment activities.

### ii The Office of Equal Opportunity: Canadian Broadcasting Corporation (CBC)

The President of the CBC announced the formation of a Task Force on the Status of Women within the CBC in 1974 as a result of the perceived need to ameliorate the terms and conditions of women working for the corporation. The Task Force recommended (amongst 56 specific recommendations) the immediate establishment of an Office of Equal Opportunity as the lead structure for implementing a long-term, comprehensive equal opportunity program.

The equal opportunity personnel were given the mandate:

> To ensure that all CBC employees enjoy equality of opportunity - without regard to sex, religion, age, marital status or national origin - in all areas of employment within the Corporation.

### iii The Equal Opportunities for Women Program (EOW Program)

On October 30, 1975, Cabinet approved policy and program guidelines designed to ensure the equal access of women to employment and career opportunities in the Public Service. Published in the Personnel Management Manual as "Equal Opportunities for Women in the Public Service of Canada", the policy forms the cornerstone of the EOW program. The Treasury Board Secretariat also issues, as part of the Personnel Management Plan, guidelines for reporting on the EOW departmental programs.

FEDERAL GOVERNMENT EMPLOYEES BY SEX WITHIN OCCUPATIONAL CATEGORY: 1980 AND 1982

| OCCUPATIONAL | 1982 | | | | 1980 | | | |
|---|---|---|---|---|---|---|---|---|
| | | WOMEN | | | | WOMEN | | |
| CATEGORY | TOTAL* | NO. | %** | MEN | TOTAL | NO. | % | MEN |
| Management | 2789 | 145 | 5.19 | 2644 | 1274 | 52 | 4.1 | 1222 |
| Scientific and Professional | 22343 | 5044 | 22.57 | 17298 | 21372 | 4500 | 21.1 | 16870 |
| Administration and Foreign Service | 53831 | 17196 | 31.94 | 36632 | 49058 | 13417 | 27.3 | 35641 |
| Technical | 25360 | 3208 | 12.64 | 22152 | 25737 | 2676 | 10.4 | 23059 |
| Administrative Support | 70438 | 57745 | 81.97 | 12688 | 65503 | 52815 | 80.6 | 12685 |
| Operational | 45492 | 5628 | 12.37 | 39858 | 45165 | 5228 | 11.6 | 39936 |
| GRAND TOTAL*** | 223013 | 89186 | 39.99 | 133812 | 208299 | 78793 | 37.8 | 129498 |

* Total in September 1982

** % of Known population

*** Grand totals include the unknown population as well

Source: Public Service Commission Table 13 Annual Report 1981

These guidelines direct federal departments/agencies to set long and short term numerical targets to ensure that the representation of women by department, by occupational group and by level reflects the number of qualified and interested women available. Departmental annual reports and action plans are reviewed each year by the Treasury Board, as the federal employer.* A Treasury Board annual report summarizes progress achieved in implementing the EOW Program.**

Deputy Heads are held accountable for the implementation of the EOW policy in their departments. Departmental Responsible Officers (DRO) have been assigned departmental responsibility for the implementation of the policy. Such responsibility implies the authority to control or direct the development and implementation of a departmental EOW policy and program. The DRO is generally a member of the senior management of the department. A policy requiring that performance appraisals of supervisors, managers and executives include a review of their efforts to act on policies such as equal opportunities for women has recently been implemented to ensure increased managerial accountability for progress in achieving the program's objectives.

The role of the Public Service Commission under the EOW Program is to ensure that staffing policies and procedures present no unnecessary barriers to the recruitment, appointment and promotion of women and to ensure equitable access to and promotion from within the Public Service. In addition, departments have been instructed to make more use of women on selection boards. It is expected that this measure will reduce bias against women in the selection process.

### iv Participation Programs Group, Human Resources Division, Treasury Board Secretariat

This unit was created to enhance, reinforce and highlight the Government's commitment to affirmative action and equal opportunity policies within the Public Service.

The Division is responsible for co-ordinating activities under the EOW Program and the Public Service Affirmative Action Strategy (discussed under Article 4.1). A review of EOW Action Plans is produced and published each year.**

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* The following report is included in Documentation as an example. Secretary of State, Equal Opportunities for Women Programme: Annual Report 1981 and Action Plan 1982-1983 (Ottawa: Secretary of State, n.d.).

** Treasury Board of Canada Secretariat, Equal Opportunities for Women in the Public Service of Canada 1980 (Ottawa: Personnel Policy Branch, Treasury Board, n.d.).

### b Provincial Measures

In general, provincial governments have not yet moved as fast or as far as has the federal government. Measures taken by Ontario and New Brunswick are discussed. Saskatchewan is in the process of seeking approval from the Human Rights Commission to implement a special program.

The chart accompanying this section shows the number of women at the levels of deputy and associate/assistant deputy minister in the federal government, and in the provinces/territories.

#### i Ontario

Ontario established a Women Crown Employees Office in 1974 in response to a study on the status of female Ontario government employees. This office oversees policies aimed at diversifying the occupational distribution of women employees. In 1980, a directive under the affirmative action program required each department to establish numerical hire/promotion targets for all classification levels with less than 30% female representation. The objective is to ensure that a 30% female representation is achieved by the year 2000. As well, each department sets numerical targets for accelerated career development procedures for women.

#### ii New Brunswick

The Government of New Brunswick has recently established an Equal Opportunity Program within the Civil Service. A Co-ordinator has been appointed to administer the program.

In addition, the government has endorsed the following Policy Statement on Equal Employment Opportunity.

> The New Brunswick Provincial Government, as an employer, actively supports the principle of equal employment opportunity for all persons. Where unnecessary barriers have resulted in restricting employment and promotional opportunities for certain segments of the society, the necessity of a comprehensive program to eliminate or redress such barriers is recognized. Therefore, it is the policy of the provincial government to provide equal access to employment, training and promotional opportunities to women, Natives and disabled persons. The objective of the government is to:

DEPUTY AND ASSOCIATE/ASSISTANT DEPUTY MINISTERS BY JURISDICTION AND BY SEX : 1982

| JURISDICTION | DEPUTY MINISTERS TOTAL/WOMEN | ASSOCIATE/ASSISTANT DEPUTY MINISTERS TOTAL/WOMEN |
|---|---|---|
| CANADA | 104/3 | 269/15 |
| YUKON TERRITORY | 17/0 | 2/0 |
| NORTHWEST TERRITORIES | 16/0 | 13/0 |
| BRITISH COLUMBIA | 29/3 | 71/0 |
| ALBERTA | 72/1(EO2) | 197/11(EOI includes Executive Directors) |
| SASKATCHEWAN | 22/0 | 19/0 |
| MANITOBA | 23/2 | */4 |
| ONTARIO | 32/1 | 52/2 |
| QUEBEC*** | | |
| NEW BRUNSWICK | 23/2 | 23/0 |
| NOVA SCOTIA | 24/1 | 36/4 |
| PRINCE EDWARD ISLAND | 10/0 | 3/1 |
| NEWFOUNDLAND | 35/0 | 73/3 |
| TOTAL | 407/13 | 758**/40 |

* Information on the total is unavailable.
** Please note Manitoba information is missing from the total.
*** Quebec information not available.

a provide employment for these persons which is meaningful and which allows opportunities for advancement; and

b ensure a more balanced representation of qualified Natives, women and disabled persons in the provincial public service workforce.

### iii Saskatchewan

Saskatchewan's initiatives to increase the representation of women employed at the higher levels of the public service and in other areas where they are under-represented are discussed under Article 4.1.

## 2 APPOINTMENT TO PUBLIC OFFICE

In many instances the right to perform public functions is contingent upon being appointed (and/or nominated for appointment) to hold public office. For example, in order to perform the public functions required of a judge, individuals must first be appointed to that office by the appropriate government.

The institutions discussed in this section wield significant power in making decisions and formulating policies which affect the lives of many citizens. And yet women are as singularly under-represented in the public offices to which they may be appointed as they are in those to which they may be elected. Governments, because they are directly responsible for making appointments, can choose to act as agents of change in this area.

Judicial appointments, appointments to the governing bodies of agencies, boards and commissions and appointments to certain legislative institutions under the aegis of government are discussed.

### a Judicial Appointments

Both appointments as judges of federal and provincial courts of justice and appointments as citizenship court judges are discussed.

### i Citizenship Judges

The appointment of citizenship judges is provided for under Section 25(1) of the Citizenship Act. Such judges are responsible for approving applications for the granting, retention, renunciation or resumption of Canadian citizenship. No distinction is made between women and men in terms of appointment to the office.

## FEDERAL APPOINTMENTS TO THE BENCH BY JURISDICTION, COURT AND SEX:1982

| JURISDICTION | TOTAL NUMBER JUDGES* | TOTAL NUMBER WOMEN JUDGES |
|---|---|---|
| **CANADA** | | |
| Supreme Court | 9 | 1 |
| Federal Court | | |
| Appeal Division | 6 | 0 |
| Trial Division | 10 | 0 |
| **YUKON TERRITORY** | | |
| Supreme Court | 1 | 0 |
| **NORTHWEST TERRITORIES** | | |
| Supreme Court | 2 | 0 |
| **BRITISH COLUMBIA** | | |
| Court of Appeal | 11 | 0 |
| Supreme Court | 28 | 2 |
| County Court | 38 | 1 |
| **ALBERTA** | | |
| Court of Appeal | 10 | 0 |
| Court of Queen's Bench | 55 | 3 |
| **SASKATCHEWAN** | | |
| Court of Appeal | 5 | 0 |
| Court of Queen's Bench | 28 | 2 |
| **MANITOBA** | | |
| Court of Appeal | 6 | 0 |
| Court of Queen's Bench | 10 | 0 |
| County Court | 12 | 1 |
| **ONTARIO** | | |
| Court of Appeal | 16 | 0 |
| High Court | 45 | 2 |
| County and District Court | 141 | 7 |
| **QUEBEC** | | |
| Court of Appeal | 14 | 1 |
| Superior Court | 111 | 7 |
| **NEW BRUNSWICK** | | |
| Court of Appeal | 5 | 0 |
| Court of Queen's Bench | 16 | 0 |
| **NOVA SCOTIA** | | |
| Appeal Division | 6 | 0 |
| Trial Division | 10 | 1 |
| County Court | 9 | 0 |
| **PRINCE EDWARD ISLAND** | | |
| Supreme Court | 7 | 0 |
| **NEWFOUNDLAND** | | |
| Appeal Division | 4 | 0 |
| Trial Division | 7 | 0 |
| District Court | 8 | 0 |
| TOTAL | 630 | 28 |

* Supernumerary Judges not included.

More than half of all those persons currently appointed to the position are women and the present National Co-ordinator of Citizenship Judges is a woman.

### ii Federally-Appointed Judges

There are 630 offices where the judicial appointment is controlled by the federal government. Currently, 28 of these positions are held by women. The accompanying chart shows their distribution amongst the courts comprising the federal judiciary system.

The following facts are of interest.

- The first and only woman to be named to the Supreme Court of Canada was appointed on 7 March 1982.
- The only woman currently sitting on a Court of Appeal was elevated to the Quebec Court of Appeal 16 October 1979.
- The only woman to hold the position of Chief Justice was appointed Chief Justice of the Nova Scotia Supreme Court (Trial Division) on 1 March 1982.
- There are no women holding federal appointments as judges in either of the Territories or in the provinces of Newfoundland, New Brunswick and Prince Edward Island.

### iii Provincially-Appointed Judges

The accompanying chart shows the representation of women in the provincial judiciary systems for which information was supplied.

## b Appointments to Government Boards, Commissions, Councils, Committees and Crown Corporations

The low ratio of female to male appointments to the governing bodies of such organizations has long been an issue of concern for the federal and provincial advisory councils alike.

### i Federal Appointments

No federal government policy on equal representation by sex on the governing bodies of agencies, boards and commissions is known to exist.

PROVINCIAL APPOINTMENTS TO THE BENCH BY JURISDICTION AND BY SEX: 1982

| JURISDICTION | TOTAL NUMBER JUDGES | TOTAL NUMBER WOMEN JUDGES |
|---|---|---|
| YUKON TERRITORY | 2 | 0 |
| NORTHWEST TERRITORIES | 4 | 0 |
| BRITISH COLUMBIA | 117 | 6 |
| ALBERTA | 106 | 4 |
| SASKATCHEWAN | 45 | 3 |
| MANITOBA | 50 | 2 |
| ONTARIO | 231 | 6 |
| NEW BRUNSWICK | 34 | 0 |
| NOVA SCOTIA | 23 | 1 |
| PRINCE EDWARD ISLAND | 3 | 0 |
| NEWFOUNDLAND | 42 | 0 |
| TOTAL | 657 | 22 |

The most recent figures available derive from a study made in 1980*. Of the full-time appointments available in 86 of the agencies studied, 45 of the 292 available positions were filled by women. Twenty-three of the 45 female appointments were accounted for by two agencies: the Citizenship Commission (19 of 33) and the Canadian Advisory Council on the Status of Women (4 of 4). Thus women held less than 10% (22) of the 255 positions in the remaining 84 agencies.

The study notes that:

> Some of the organizations included in this study have more impact on the daily life of Canadians than others, or at least, more direct and visible impact. Eight agencies have been

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* Lyse Champagne, Not How Many But How Few: Women Appointed to Boards, Commissions, Councils, Committees and Crown Corporations within the Power of the Federal Government (Ottawa: Canadian Advisory Council on the Status of Women, 1980) p.12.

> selected to illustrate the minimal representation of women on key boards: Air Canada, Bank of Canada, Canada Labour Relations Board, the Canadian Broadcasting Corporation, Canadian National (Railways), Canadian Transport Commission, National Energy Board, and Petro Canada. ...
>
> ... Three of the eight agencies have only one woman sitting on their boards: Air Canada, the Canada Labour Relations Board and the National Energy Board. The other five have no women on their boards at the present time: the Bank of Canada, the Canadian Broadcasting Corporation (CBC), Canadian National, the Canadian Transport Commission (CTC) and Petro Canada. ...
>
> ... Decisions that affect our communications, transportation systems, finances, energy supplies and economic strategy are being made without adequate representation from half the population that is directly concerned.

### ii Provincial Appointments

The issue is also one of concern to provincial advisory councils.

The New Brunswick Advisory Council on the Status of Women analyzed women's representation on government boards and commissions as of 30 April 1982. The Council notes that it:

> ... has repeatedly reminded the government of its recommendation to increase the number of women appointed to government boards, councils and committees ... Our survey shows that only 17.7% of board members are women and that 37% of all boards (189 in total) have no women members. Five departments have no women on any of their boards...*

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* New Brunswick Advisory Council on the Status of Women, Annual Report 1981-82 (Moncton: Advisory Council on the Status of Women, 1982) p.12.

The Saskatchewan Advisory Council on the Status of Women also prepared a report on the same topic.* The report showed female representation on boards and commissions to be 34% and on Crown corporations, 7.6%.

## c Legislative Appointments

A limited number of legislative and executive positions are filled by appointment.

The Governor-General (at the federal level) and Lieutenant-Governor (in each province) are appointed by the Queen, to represent her as titular head of state. The position is largely ceremonial. The appointment is made on the advice of the Prime Minister or provincial Premier. At present, the province of Manitoba is served by a female Lieutenant-Governor.

The federal Parliament comprises two bodies: the House of Commons and the Senate. Representation in the elected House of Commons is discussed under Article 7(a). Senators are appointed by the Governor-General, on the advice of the Prime Minister. Of the 92 senators currently serving, 8 are women.

There are no institutions equivalent to the Senate in the provinces.

### PRINCIPAL STATUTES

CANADA
- Financial Administration Act, R.S.C. 1970, c. F-10.
- Public Service Employment Act, R.S.C. 1970, c.P-32.
- Public Service Staff Relations Act, R.S.C. 1970, c. P-35.

YUKON TERRITORY
- Public Service Commission Act, C.Y.O.T. 1976, c.P-10.1.

NORTHWEST TERRITORIES
- Public Service Ordinance, R.O.N.W.T. 1974, ch.P-13.

BRITISH COLUMBIA
- Public Service Act, R.S.B.C. 1979, c.343.

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* Saskatchewan Advisory Council on the Status of Women, Female Participation on Boards, Committees and Crown Corporations in Saskatchewan (Saskatoon: Advisory Council on the Status of Women, 1981).

ALBERTA

Public Service Act, R.S.A. 1980, c. P-31.

SASKATCHEWAN

Public Service Act, R.S.S. 1978, c. P-42.

MANITOBA

The Civil Service Act, R.S.M. 1970, c. C-110.

The Interpretation Act, R.S.M. 1970, c. I-80.

The Public Officers Act, R.S.M. 1970, c. P-230.

ONTARIO

Public Service Act, R.S.O. 1970, c. 418.

QUEBEC

Civil Service Act, R.S.Q., c. F-3.1.

NEW BRUNSWICK

Civil Service Act, R.S.N.B. 1973, c. C-5.

NOVA SCOTIA

Civil Service Act, R.S.N.S. 1967, c. 34.

PRINCE EDWARD ISLAND

Act Respecting the Civil Service, R.S.P.E.I. 1974, c. C-9.

NEWFOUNDLAND

Civil Service Act, R.S.N. 1970, c.41 (as am.).

Newfoundland Public Service Commission Act, S.N. 1973, No. 116.

DOCUMENTATION

CANADA

Canadian Advisory Council on the Status of Women (CACSW)

Not How Many But How Few: Women Appointed to Boards, Commissions, Councils, Committees and Crown Corporations within the Power of the Federal Government. Lyse Champagne. Ottawa: CACSW. 1980.

Women in the Public Service: Overlooked and Undervalued. Ottawa: CACSW. 1980.

Women in the Public Service: Barriers to Equal Opportunity. Ottawa: CACSW. 1979.

Public Service Commission of Canada (PSC)

EOW News. (Bimonthly bulletin on employment issues of importance to women public servants). Ottawa: PSC.

Out of the Classroom into the Workplace. (Pamphlets aimed at encouraging women to enter areas of non-traditional employment in government). Ottawa: PSC. 1980, 1981, 1982.

Sex and the Public Service: A Report to the Public Service Commission of Canada. Kathleen Archibald. Ottawa: Information Canada. 1973.

Study of the Separation of Women from the Public Service of Canada. Ottawa: PSC. 1980.

Secretary of State

Equal Opportunities for Women Programme: Annual Report 1981 and Action Plan 1982-1983. Ottawa: Personnel Administration Branch, Secretary of State. n.d.

Treasury Board of Canada

Equal Opportunities for Women in the Public Service of Canada. Personnel Policy Branch. Ottawa: Supply and Services Canada. 1980.

## ARTICLE 7(c)

> States Parties ... in particular, shall ensure, on equal terms with men, the right:
>
> (c) To participate in non-governmental organizations and associations concerned with the public and political life of the country.

In its chapter on the "Participation of Women in Public Life", the Royal Commission on the Status of Women in Canada made only five recommendations. Three were related to political life and two to the judicial system. The Commissioners closed that chapter with the following words.

> Very positive measures are needed to break the invisible as well as the evident barriers that now exist. The Commission does not believe that special consideration should be given to women. Nevertheless we are convinced that for at least an interim period it is necessary to correct the present imbalance between the participation of women and men in public life. A special effort must be made to seek out and encourage competent women in Canadian society to accept appointments ... nominations ... and ... major cabinet posts and other positions of responsibility.*

The degree of women's participation in non-governmental and/or private organizations and associations cannot, under the Canadian system, be directly influenced by government. Representation of women, for example, on the governing bodies of trade unions, professional associations and political parties remains low in comparison with male representation. Nevertheless the aim of encouraging the full potential of women as citizens in society has received attention by government. The major initiatives in the area have been the establishment of the Women's Programme and the Native Women's Programme in the Department of the Secretary of State. In addition, funding for specific projects is made available by other government departments and agencies, such as Health & Welfare, Employment and Immigration and the Canadian International Development Agency.

The need to provide a contact point within government for women and for women's groups was recognized as early as 1973 with the appointment of a Programme Advisor, Women's Organizations. In the following years, the concept was established in program form by virtue of a directive from Cabinet.

The discussion which follows will also address the activities of some of the larger nationally-based women's groups.

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* Royal Commission on the Status of Women in Canada, Report (Ottawa: Information Canada, 1970) p.356.

## 1 THE NATIVE WOMEN'S PROGRAMME

The program is situated in the Department of the Secretary of State and administered there through the Native Citizens Directorate in the Citizenship Participation and Official Languages Branch. It was initiated in 1972 as a result of a government decision to develop a distinct program of support for Native Women's groups. Since that time it has been the only government program accessible solely to Native Women at both the regional and national levels.

The aim of the program is to support and encourage projects and activities which engage and advance the participation of Status and Non-status Indians, Métis and Inuit in contemporary society with the objective of:

- multiplying opportunities for intracultural and intercultural contact and appreciation by native women at the national, provincial and local levels thereby making their social and cultural participation more meaningful within their own communities and more visible to all Canadians;
- upgrading technical and management skills of native women through the development of their own leadership, and the establishment of objectives and criteria for their own representative organizations;
- creating the opportunities for native women to initiate and influence those policies and programmes developed by government departments for the benefit of the native population;
- providing opportunities for native women to initiate activities and projects which aid them in their desire for the preservation and retention of theirs and their communities' cultural identity.

## 2 THE WOMEN'S PROGRAMME

The Women's Programme of the Department of the Secretary of State is the major federal program responsible for providing advice, guidance, information and financial assistance to voluntary associations working to improve the status of women. The objective of this program is to encourage the full participation of women in Canadian society by increasing their ability to participate in all aspects of community life, and by urging major institutions to take concrete measures to improve their status.

The program provides funds and offers technical advice and assistance to women's groups engaged in promoting change in the status of women in Canada. Under the Citizens' Participation Branch, the Women's Programme aims at bringing about an increased awareness of women's issues both among women and the general public. This objective is carried out through the publication of widely distributed resource materials and through support of projects which develop women's organizational skills, provide for information exchange and engage in advocacy for women. Through its liaison with educational and other national institutions, the Women's Programme encourages positive action to promote women's interests and their equal representation in decision-making structures.

The program focuses on two categories of organization: those aimed specifically at improving the status of women and those traditional and voluntary women's groups which are beginning to address the secondary status of women in society.

## 3 WOMEN'S GROUPS

The number of women's groups addressing the issue of women's status in society has increased dramatically in the past decade as has their power and their ability to influence government decisions.

A directory of the names and addresses of women's organizations in Canada is published by the Department of the Secretary of State. The same department also publishes a catalogue drawing together print and audio-visual materials by, for and about Canadian women as well as a listing of federal programs providing financial assistance to voluntary organizations.

Amongst the more widely known organizations are five which receive operational funding from the Women's Programme, Secretary of State:

- The National Action Committee on the Status of Women;
- The Canadian Research Institute for the Advancement of Women;
- National Association of Women and the Law;
- Women's Research Centre;
- Canadian Congress on Learning Opportunities for Women.

## DOCUMENTATION

### CANADA

Secretary of State

Listing of Women's Groups: Canada 1982. Ottawa: Supply and Services Canada. 1982.

Women's Resource Catalogue. Ottawa: Supply and Services Canada. 1982.

Sources: Government of Canada Support to Voluntary Organizations. Ottawa: Supply and Services Canada. 1982.

## ARTICLE 8

> States Parties shall take all appropriate measures to ensure to women, on equal terms with men and without any discrimination, the opportunity to represent their Governments at the international level and to participate in the work of international organizations.

Membership in Canadian delegations to international meetings is regulated by a 1976 Cabinet directive: Representation of the Government of Canada at International Conferences. The Secretary of State for External Affairs, in exercising authority to approve proposals to participate in international conferences, is responsible for ensuring that there is equitable representation by sex on all delegations. A 1982 survey of the ratio of women to men in such delegations indicates that the directive has not been entirely effective in ensuring that women are given equal opportunity to represent the Canadian government as members of delegations.

Of the total of 127 officers entering employment with the federal Department of External Affairs in 1982, thirty-seven were women. Of the 114 Canadians who held appointments as Heads of Post in diplomatic missions abroad in 1982, 6 were women.

Participation of Canadians in the work of international organizations is normally arranged through the International Assignments Program. Initiated in 1978, the program is managed jointly by the Department of External Affairs and the Public Service Commission of Canada. Figures on the number of Canadian women assigned to work in international organizations through the program are not currently published.

ARTICLE 9.1

> States Parties shall grant women equal rights with men to acquire, change or retain their nationality. They shall ensure in particular that neither marriage to an alien nor change of nationality by the husband during marriage shall automatically change the nationality of the wife, render her stateless or force upon her the nationality of the husband.

The federal Citizenship Act was adopted by Parliament in 1976 and came into force on 15 February 1977. The new law was designed (amongst other aims) to remove the distinctions based on sex, marital status and national origin contained in provisions of the previous act, the Canadian Citizenship Act of 1947.

The current law treats women and men equally with regard to the acquisition, change and retention of citizenship. Neither marriage to an alien nor a husband's change of nationality affects the nationality of a wife who is a Canadian citizen.

Subsection 10(2) corrects the effects of unequal treatment accorded married women under the previous act by permitting the resumption of citizenship by women who had married foreign nationals before 1947.

> 10(2) Notwithstanding any other provision of this Act, a woman who
>
> (a) by virtue of any law of Canada in force at any time before the first day of January, 1947 had, by reasons only of her marriage or the acquisition by her husband of a foreign nationality, ceased to be a British subject, and
>
> (b) would have been a citizen had the former Act come into force immediately before her marriage or the acquisition by her husband of a foreign nationality,
>
> acquires citizenship immediately upon the receipt by the Minister of a notice in writing by her that she elects to be a citizen.

## ARTICLE 9.2

> States Parties shall grant women equal rights with men with respect to the nationality of their children.

Any child born in Canada is automatically a Canadian citizen (s.3(1)(a)). Children born to diplomatic personnel accredited to Canada or working for international organizations in Canada are excepted.

Either parent may apply for citizenship on behalf of a minor child born in Canada (s.5(2)(a)). A parent is defined under Regulation 2 as "the father or mother of a child, whether or not the child is born in wedlock, and includes an adoptive parent."

A child born abroad of a Canadian parent may derive citizenship from either parent (s.3(1)(b)).

The sole instance of unequal treatment relates to the concept of illegitimacy. Subsection 5(2)(b)(i) is a provision which entitles the child born outside Canada of an unmarried Canadian mother to be granted citizenship. No such entitlement exists for the child born outside of Canada of unmarried parents where the father is a Canadian citizen.

### PRINCIPAL STATUTE

#### CANADA

Citizenship Act (1976), S.C. 1974-75-76, c. 108 (as am).

Citizenship Regulations

## ARTICLE 10

States Parties shall take all appropriate measures to eliminate discrimination against women in order to ensure to them equal rights with men in the field of education and in particular to ensure, on a basis of equality of men and women:

(a) The same conditions for career and vocational guidance, for access to studies and for the achievement of diplomas in educational establishments of all categories in rural as well as in urban areas; this equality shall be ensured in pre-school, general, technical, professional and higher technical education, as well as in all types of vocational training;

(b) Access to the same curricula, the same examinations, teaching staff with qualifications of the same standard and school premises and equipment of the same quality;

(c) The elimination of any stereotyped concept of the roles of men and women at all levels and in all forms of education by encouraging coeducation and other types of education which will help to achieve this aim and, in particular, by the revision of textbooks and school programmes and the adaptation of teaching methods;

(d) The same opportunities to benefit from scholarships and other study grants;

(e) The same opportunities for access to programmes of continuing education, including adult and functional literacy programmes, particularly those aimed at reducing, at the earliest possible time, any gap in education existing between men and women;

(f) The reduction of female student drop-out rates and the organization of programmes for girls and women who have left school prematurely;

(g) The same opportunities to participate actively in sports and physical education;

(h) Access to specific educational information to help to ensure the health and well-being of families, including information and advice on family planning.

Education is a matter entirely within the control of the provinces by virtue of section 93 of Constitution Act 1867.

> 93. In and for each province, the Legislature may exclusively make laws in relation to education subject to the following provisions:
>
> (1) Nothing in any such Law shall prejudicially affect any right or privilege with respect to denominational schools which any class of persons have by law in the province at the Union:
>
> (2) All the powers, privileges, and duties at the Union by law conferred and imposed in Upper Canada on the separate schools and school trustees of the Queen's Roman Catholic subjects shall be and the same are hereby extended to the dissentient schools of the Queen's Protestant and Roman Catholic subjects in Quebec:
>
> (3) Where in any province a system of separate or dissentient schools exists by law at the Union or is thereafter established by the legislature of the province, an appeal shall lie to the Governor-General-in-Council from any act or decision of any provincial authority affecting any right or privilege of the Protestant or Roman Catholic minority of the Queen's subjects in relation to education:
>
> (4) In case any such provincial law as from time to time seems to the Governor-General-in-Council requisite for the due execution of the provisions of this section is not made, or in case any decision of the Governor-General-in-Council on any appeal under this section is not duly executed by the proper provincial authority in that behalf, then and in every such case, and as far only as the circumstances of each case require, the Parliament of Canada may make remedial laws for the due execution of

> the provisions of this Section and of any decision of the Governor-General-in-Council under this Section.

Within each province there is a Department or Ministry of Education responsible for administering the statute governing the provision of educational services, usually an Education Act, at the primary/elementary and secondary levels. Departments/Ministries of Education are usually responsible for the training and certification of teachers; the supervision and/or inspection of schools; the development of curricula and approval of textbooks; the provision of financial support and services; and the drawing up of rules and regulations to guide school trustees and teachers.

The responsibility of establishing and maintaining schools is delegated to locally elected boards of trustees. In addition, the education boards select teachers, prepare budgets and generally represent the interests of the public in the administration of the schools.

Five types of school have been distinguished:

- public schools which are operated and administered by the provinces and include also Protestant and Roman Catholic separate schools *and schools operated by the Department of National Defence, within the framework of the public school system;
- private schools, church-affiliated or non-sectarian, which are operated and administered by private individuals or organizations;
- federal schools administered directly by the federal government including overseas schools operated by the Department of National Defence for the dependants of Armed Forces personnel and Indian schools operated by the Indian and Northern Affairs Department;
- schools for the handicapped which provide special facilities for training the blind and the deaf; and
- private kindergartens and nursery schools which offer education to children of pre-elementary school age.

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* Certain provinces make legal provision for a separate school system for minority religious groups. Schools in such systems operate under the authority of their own separate school board. As public bodies, they receive grants and services from the department/ministry of education and must conform to its regulations with respect to curriculum, textbooks and teacher certification.

Post-secondary education is regulated according to the type of institution. Universities are autonomous, each having its own elected governing council. Funds are provided by governments acting on advice received from grants committees appointed to deal with matters of planning and finance.

Technical/vocational education at the post-secondary level is offered by community colleges which are non-degree granting institutions. Such colleges are public institutions. In some provinces, departments/ministries have been established (apart from education ministries) to be responsible for the administration of post-secondary education.

Although the federal government has little direct statutory responsibility in the provision of education, it supports post-secondary education indirectly through the transfer of funds; the provision of student aid; and the sponsoring of occupational training. The direct provision of educational services is accomplished through the operation of schools for the children of Armed Forces personnel, Indian schools; and military colleges.

All services offered in connection with public education in Canada are offered equally to women and men. And at least one jurisdiction guarantees the right to education under a special provision of its human rights legislation. Section 13 of the Saskatchewan Human Rights Code states that "every person and every class of persons shall enjoy the right to education ... without discrimination because of his or their ... sex, marital status ...". The fact that more men than women (or vice versa) take advantage of certain services, reflects the persistence of customary attitudes towards what are acceptable educational activities for women.

## PRINCIPAL STATUTES

### CANADA

Federal-Provincial Fiscal Arrangements and Established Programs Financing Act, S.C. 1976-77, c. 10.

### YUKON TERRITORY

Apprentice Training Act, O.Y.T. 1978, c. A-1.

Fitness and Amateur Sport Agreement Act, O.Y.T. 1978, c. F-6.

Occupational Training Act, O.Y.T. 1978, c. O-0.1.

Recreation Development Act, O.Y.T. 1978, c. R-3.1.

School Act, O.Y.T. 1978, c. S-3.

Student Financial Assistance Act, O.Y.T. 1978, c. S-8.1.

Trades School Regulations Act, O.Y.T. 1978, c. T-3.

NORTHWEST TERRITORIES

Education Ordinance, O.N.W.T. 1976 (1st), c. 2.

BRITISH COLUMBIA

College and Institute Act, R.S.B.C. 1979 c. 53.

School Act, R.S.B.C. 1979 c. 375.

School Support (Independent) Act, R.S.B.C. 1979 c. 318.

University Act, R.S.B.C. 1979 c. 419.

ALBERTA

Banff Centre Act, R.S.A. 1980, c. B-1.

Colleges Act, R.S.A. 1980, c. C-18.

School Act, R.S.A. 1980, c. S-3.

Technical Institutes Act, R.S.A. 1980, c. T-3.1.

Universities Act, R.S.A. 1980, c. U-5.

SASKATCHEWAN

Saskatchewan Human Rights Code, S.S. 1979, c. S-24.1, s.13, as am.

MANITOBA

Education Administration Act, S.M. 1980, c. 31.

Fitness and Amateur Sport Act, R.S.M. 1970, c. F-120.

Public Schools Act, S.M. 1980, c. 33.

ONTARIO

Education Act, R.S.O. 1980, c. 129.

QUEBEC

Education Act, R.S.Q., c. 1-14.

NEW BRUNSWICK

Auxiliary Classes Act, R.S.N.B. 1973, c. S-5 as. am.

Education of Aural and Visually Handicapped Persons Act, R.S.N.B. 1975, c. S-5 as. am.

Maritime Provinces Higher Education Act, R.S.N.B. 1973, c. S-5 as. am.

New Brunswick Community College Act, R.S.N.B. 1973, c. S-5 as. am.

Schools Act, R.S.N.B. 1973, c. S-5 as. am.

Trade School Act, R.S.N.B. 1973, c. S-5 as. am.

NOVA SCOTIA

The Education Act, R.S.N.S. 1967, c. 81.

The Education For Handicapped Persons Act, S.N.S. 1974, c. 5.

The Human Rights Act, S.N.S. 1969, c. 11 as. am.
The Universities Assistance Act, R.S.N.S. 1967, c. 320.

PRINCE EDWARD ISLAND

School Act, R.S.P.E.I. 1974, c. S-2.

NEWFOUNDLAND

The Bay St. George Community College Act, S.N. 1977, c. 19.
The Memorial University Act, S.N. 1975-76, No. 15.
The Schools Act, R.S.N. 1970, c. 346.
The Technical and Vocational Training Act, R.S.N. 1970, c. 370.

## ARTICLE 11.1

> States Parties shall take all appropriate measures to eliminate discrimination against women in the field of employment ...

Responsibility for labour matters is divided between the federal and provincial jurisdictions with responsibility for the majority of workers resting with the provinces.

As defined in the Canada Labour Code, federal jurisdiction covers interprovincial and international railways, highway transport, telephone, telegraph and cable systems, pipelines, canals, ferries, tunnels, bridges, shipping services, radio and television broadcasting, air transport and airports, banks, grain elevators, flour and feed mills and warehouses, and a work, undertaking or business outside the exclusive legislative authority of a provincial legislature.

Legislation relating to all other labour matters is within provincial jurisdiction.

The rights of women in employment are guaranteed under two major kinds of legislation. Freedom from discrimination on the basis of sex is guaranteed under human rights codes. Legislation covering conditions of work including special provisions relating to maternity and/or pregnancy are usually found in labour/employment standards codes.

In addition to provincial and federal legislation, certain constitutional measures are relevant to the equality of men and women in the field of employment.

- Sections 15 and 28 of the Charter ensure that any discriminatory elements contained in legislation implementing the right to work are, by virtue of s.52 of the Constitution Act, 1982, "of no force and effect".
- Also, by virtue of s.24 of the Charter, persons whose rights under ss.15 or 28 have been infringed may obtain an appropriate remedy.

The field of employment is an area in which governments in Canada have long been active in ensuring that the existing rights of women are protected and new rights promoted. For a number of years, the Women's Bureaus attached to Departments of Labour have been a main focus of activity for the equal rights of women as has also the Canada Employment and Immigration Commission.

The following activities may be viewed as "appropriate measures to eliminate discrimination against women in the field of employment" in Canada.

## .(FEDERAL/PROVINCIAL) WOMEN IN EMPLOYMENT COMMITTEE

The Women in Employment Committee, established in 1976, is a Standing Committee of the Canadian Association of Administrators of Labour Legislation (CAALL). Membership in the Committee is composed of representatives from federal and provincial Women's Bureaus.

As a Standing Committee of CAALL, the Women in Employment Committee has an annual work program and is required to present a report to the CAALL Annual Conference, a meeting attended by the Deputy Ministers of Labour for all Canadian jurisdictions.

## .THE WOMEN'S BUREAU, LABOUR CANADA

The Women's Bureau of the Department of Labour, established in 1954 as the result of a ministerial decision in 1953, operates within the federal Department of Labour. Labour Canada works to maintain a balanced legislative framework for industrial relations in the federal jurisdiction; establish minimum standards for wages, working conditions, and safety and health; protect individuals or groups of workers in terms of minimum standards of wages, working conditions and safety and health; and, to minimize and resolve conflict in labour relations.

Priorities for the work of the Women's Bureau are developed in line with the priorities of the Government, those of the Department of Labour previously indicated, the in-put of non-governmental agencies, the National Plan of Action, and the on-going need to deal with problem areas as they arise. Currently, in its efforts to achieve female equality in the workplace, the Bureau is concentrating on working conditions, pay, occupational segregation and attitudes about female employment potential which limit opportunities for women.

The Women's Bureau monitors federal labour legislation, policies and programs in order to recommend changes and new initiatives. The Bureau has been instrumental in the enactment of legislation relating to maternity leave, equal pay, sex discrimination, and in the development of policies and programs relating to equality of opportunity. The Bureau conducts research into obstacles to women's equality in the paid labour force, and ways to improve women's participation in economic activity. Results of this research are published together with a variety of publications on the situation of working women as well as proceedings of seminars and conferences.

At the international level, the Women's Bureau is active on behalf of Canadian women in the ILO, the OECD and in other organizations.

## .THE WOMEN'S EMPLOYMENT DIVISION, CANADA EMPLOYMENT AND IMMIGRATION COMMISSION (CEIC)

The Women's Employment Division at CEIC National Headquarters in Ottawa identifies major problem areas facing women in the labour market and develops strategies for mitigating the problems. The Division, in conjunction with Employment Programs, develops a yearly

Plan of Action to improve the labour market position of women. The Division works in conjunction with the Commission Status of Women Committee to develop long term employment strategies for women.

The Women's Employment Coordinators in each of the Commission's Regional offices promote equal employment opportunities for women through delivery at the service level. They work with CEIC personnel to devise ways of increasing the number of female clients in training in the full range of occupations, particularly in training for jobs traditionally occupied by men. Moreover, they direct their efforts towards employer groups to make them aware of the potential that is in the female labour force and towards women themselves to inform them of their opportunities and assist women to find employment commensurate with their skills, abilities and needs.

. The Women's Employment Policy, Canada Employment and Immigration Commission (CEIC)

The CEIC plays a major role in advocating equal rights for women in employment. The objective of the Women's Employment Policy is to promote actively the development of labour market conditions in which the economic potential of the female labour force is fully tapped and to support women workers in their pursuit of economically viable and self-fulfilling employment.

The primary concern of the Women's Employment Policy is to ensure that all programs and services offered by the CEIC meet the employment-related needs of women.

## .FEDERAL COMMITTEES OF INQUIRY

A number of committees of inquiry have been appointed to report on employment matters having a special impact on women. Amongst them are the:

- Commission of Inquiry into Part-time Work (Labour Canada);
- Task Force on Microelectronics and Employment (Labour Canada);
- Task Force on Labour Market Development (Canada Employment and Immigration Commission);
- Task Force on Unemployment Insurance (Canada Employment and Immigration Commission);
- Parliamentary Task Force on Employment Opportunities for the '80s.

## .THE WOMEN'S OFFICE, BRITISH COLUMBIA MINISTRY OF LABOUR

The Women's Office is designed to assist women seeking employment in non-traditional areas of employment as well as to promote equality for women in the workplace.

The Office is mandated to conduct educational programs designed to modify existing discrimination against women in employment and other areas, as well as to act as a public advocate of equality between men and women.

## .THE WOMEN'S DIVISION, SASKATCHEWAN LABOUR

Established in 1964 as the Women's Bureau, the Women's Division was created in 1976 by consolidating and expanding previous government programs related to the status of women. In 1979, the Career Development Office of the Department of Finance was amalgamated with the Women's Division.

Provided with a staff complement of 16, the Division has the mandate to promote a climate of equal opportunity in the province and the improvement of the status of women.

Through the Women's Division, resource speakers and materials have been provided to a wide variety of women's organizations on such issues as lobbying, problem-solving and public relations, enabling the organizations to become more involved and more effective in the political process in their community, municipality, and/or province.

The Women's Division enforces certain provisions of the Labour Standards Act and investigates violations of those provisions.

Through its Affirmative Action Program, information and assistance is provided to employers, unions and organizations setting up such programs.

## .WOMEN'S BUREAU OF MANITOBA

The Women's Bureau of Manitoba was established in 1972 as a division of the Provincial Department of Labour and Manpower with a mandate to assist women in the labour force. The director of the Bureau reports directly to the Minister to ensure that the Director is well placed to deal with job opportunity issues for women whether in the public or private sector. The primary responsibility of the Bureau involves liaison with individuals, women's organizations, other voluntary agencies, employers, unions, government departments, schools, colleges, universities, and others in an effort to promote greater understanding of women's problems and concerns, and to encourage action on them. The Bureau deals with issues relating to the education and employment of women, and works for the recognition of women's contribution to the social, economic, and political progress of the province.

The specific objectives of the Women's Bureau are:

- to provide vocational counselling service to women, as individuals and in groups;
- to increase public awareness of women's contributions and roles in the work force;

- to provide Manitoba women, particularly in the work force, the opportunity to communicate their concerns to government; and

- to ensure that women's skills and knowledge are recognized and utilized in the economic development of the province.

In addition to providing vocational counselling, the Bureau attempts to help women in such areas as equal pay for work of equal value, upward mobility, maternity leave, child care services, barriers to part-time employment, and career plans of high school students, among others.

## WOMEN'S BUREAU, ONTARIO MINISTRY OF LABOUR

In 1963, the Women's Bureau of the Ministry of Labour was established to provide a centre for study, information and action focusing on issues of concern to women in the paid labour force.

The Women's Bureau works to improve the status of women in the workforce and responds to numerous public requests for information, referrals, advice and assistance. Research and analysis of issues affecting women's employment status and of up-to-date employment data is ongoing. New publications and audio visual aids are developed as the need becomes apparent. A Resource Centre is operated for the use of students, researchers and the media.

Vocational counselling agencies and groups working with low-income, native and immigrant women are supplied with programming assistance. In addition to such outreach activities, the Bureau prepares studies and policy recommendations relating to the enactment and enforcement of labour legislation particularly as it affects women.

The Affirmative Action Consulting Service, created within the Women's Bureau in 1975, provides employers with encouragement and assistance in establishing affirmative action programs for female employees.

- Advisory Council on Equal Opportunity for Women, Ontario Ministry of Labour

  In 1979, an Advisory Council on Equal Opportunity for Women was established by the Ministry of Labour. Composed of 11 representatives of management and labour, the Council's mandate is to provide advice and assistance to the Minister of Labour and to the Affirmative Action Consulting Service in identifying the concerns of management and labour with regard to affirmative action.

## PRINCIPAL STATUTES

### CANADA

Canada Labour Code, R.S.C. 1970, c. L-1, (as am.).
Canadian Human Rights Act, S.C. 1976-77, c. 33 (as am.).
Equal Wages Guidelines (SI/78-155)
Fair Wages and Hours of Labour Act, R.S.C. 1970, c. L-3.

### YUKON TERRITORY

Fair Practices Act, O.Y.T. 1974 (2nd), c. 7.

### NORTHWEST TERRITORIES

Fair Practices Ordinance, R.O.N.W.T. 1974, c. F-2

### BRITISH COLUMBIA

Employment Standards Act, S.B.C. 1980, c. 10.
Human Rights Code, R.S.B.C. 1979, c. 186.

### ALBERTA

Employment Standards Act, R.S.A. 1980 (supp.), c. E-10.1 as am.
Individual's Rights Protection Act, R.S.A. 1980, c. I-2.

### SASKATCHEWAN

Labour Standards Act, R.S.S. 1978, c. L-1 as am.
Occupational Health and Safety Act Regulation (O.C. 437/81).
Radiation Health and Safety Act, R.S.S. 1978, c. R-1.
Saskatchewan Human Rights Code, S.S. 1979, c. S-24.1, ss.16, 19 as am.

### MANITOBA

Apprenticeship and Tradesmen's Qualification Act, S.M. 1972, c. 45.
Community Daycare Standards Act, S.M. 1982, c. 20.
Employment Standards Act, R.S.M. 1970, c. E.110, as am.
Human Rights Act, S.M. 1974, c. 65, as am.

Payment of Wages Act, S.M. 1975, c. 21.
Pension Benefits Act, S.M. 1975, c. 38.
Vacations With Pay Act, R.S.M. 1970, c. W200.
Workers' Compensation Act, R.S.M. 1970, c. W200.
Workplace Safety and Health Act, S.M. 1976, c. 63.

## ONTARIO

Employment Standards Act, R.S.O. 1980, c. 130.
Occupational Health and Safety Act, R.S.O. 1980, c. 321.
Ontario Human Rights Code, S.O. 1981, c. 53.

## QUEBEC

An Act Respecting Labour Standards, R.S.Q., c. N-1.1.
Charter of Human Rights and Freedoms, R.S.Q., c. C-12.
Occupational Health and Safety Act, R.S.Q., c. S-21.

## NEW BRUNSWICK

Human Rights Code, R.S.N.B. 1973, c. H-11 as am.
Minimum Employment Standards Act, R.S.N.B. 1973, s.M-12; as am. Regulation (N.B. Reg. 75-71; as am.).
Occupational Safety Act, S.N.B. 1976, c. O-0.1.

## NOVA SCOTIA

Human Rights Act, S.N.S. 1969, c. 11 as am.
Labour Standards Code, S.N.S. 1972, c. 10 as am.

## PRINCE EDWARD ISLAND

Human Rights Act, S.P.E.I. 1975, c. 72 as am.
Labour Act, R.S.P.E.I. 1974, c. L-1; as am.

NEWFOUNDLAND

Labour Standards Act, S.N. 1977, c. 52.
Labour Standards Regulations, 1980
(N. Reg. 97/80)
Newfoundland Human Rights Code,
R.S.N. 1970, c. 262 as am.

DOCUMENTATION

CANADA

Canada Employment and Immigration Commission

Women in the Canadian Labour Market: Labour Market Development Task Force Technical Study 36. Carol Swan. Ottawa: Supply and Services Canada. 1981.

Women's Employment Briefing Package. Ottawa: Women's Employment Division, Canada Employment and Immigration Commission. 1982.

Women's Employment Policy. Ottawa: Canada Employment and Immigration Commission. 1977.

Health and Welfare Canada

Status of Day Care in Canada 1980. Ottawa: Health and Welfare Canada. n.d.

Labour Canada, Women's Bureau

In the Chips: Opportunities, People, Partnerships. Report of the Labour Canada Task Force on Microelectronics and Employment. Ottawa: Supply and Services Canada. 1982.

Canadian Women and Job-Related Laws 1981. Ottawa: Supply and Services Canada. 1982.

Gender Wage Differentials in Canada: A Review of Previous Research and Theoretical Framework. Michael Ornstein. Ottawa: Supply and Services Canada. 1982.

Sexual Equality in the Workplace: Proceedings of a Conference. Ottawa: Supply and Services Canada. 1982.

Towards the Integration of Women into the High Technological Labour Force in the National Capital Region. Ottawa: Supply and Services Canada. 1982

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Labour Canada, Legislative Analysis

Labour Standards in Canada. Ottawa: Supply and Services Canada. 1981.

Status of Women Canada

The Employment of Women in Canada: Review of Policies for Equality of Opportunity. National Report of Canada to OECD Working Party No. 6 on the Role of Women in the Economy. Ottawa: Status of Women Canada. 1982.

Review of Federal Government Legislation on Daycare. Julie White, Ottawa: Status of Women Canada. 1981.

## ARTICLE 11.1(a)

> States Parties shall ... ensure, on a basis of equality of men and women, the same rights, in particular:
> (a) The right to work as an inalienable right of all human beings;

## *STATISTICAL DIGEST: ARTICLE 11.1(a)*

*A number of obstacles related both to the socialization of individuals and to labour market conditions may prevent women from exercising their right to work on the same terms as men.*

*We will approach this notion of the right to work by analysing statistics on labour force participation, unemployment, under-employment and economic activity.*

*It should be noted here, that labour force participation, as used in this report, means participation in the paid workforce. The value of the work performed at home, both by those women who choose not to enter the paid workforce and by those who do, is not recorded in Canada's gross national product.*

### *LABOUR FORCE PARTICIPATION*

*Fewer women than men enter the labour market although, over the last few decades, an increasing number of women have exercised this right. In Canada, the participation rate for women rose from 38.3% in 1970 to 51.6% in 1982, while during the same period the participation rate for men remained relatively stable at 78% (Table 1).* The proportion of women in the labour force also increased at the same time, from 33.6% in 1970 to 41.1% in 1982. (Data from Statistics Canada, catalogue #71-001 and 71-201).*

*During this period, there was an increase in the participation rate for women of all age groups except for those over 55. Women aged 20 to 24 continue to show the highest participation rate, 73.1% in 1982, while those belonging to the age group most strongly associated with motherhood and child-rearing, 25 to 54, show the greatest increase, up by 51.6% (Table 1).*

*These figures indicate that we are witnessing a new attitude on the part of women towards the labour market. Although the participation rate for women continues to fall after the age of 25, the incidence of this phenomenon is constantly decreasing. As far as men are* abour Force Participation Rate, 1970- 1982

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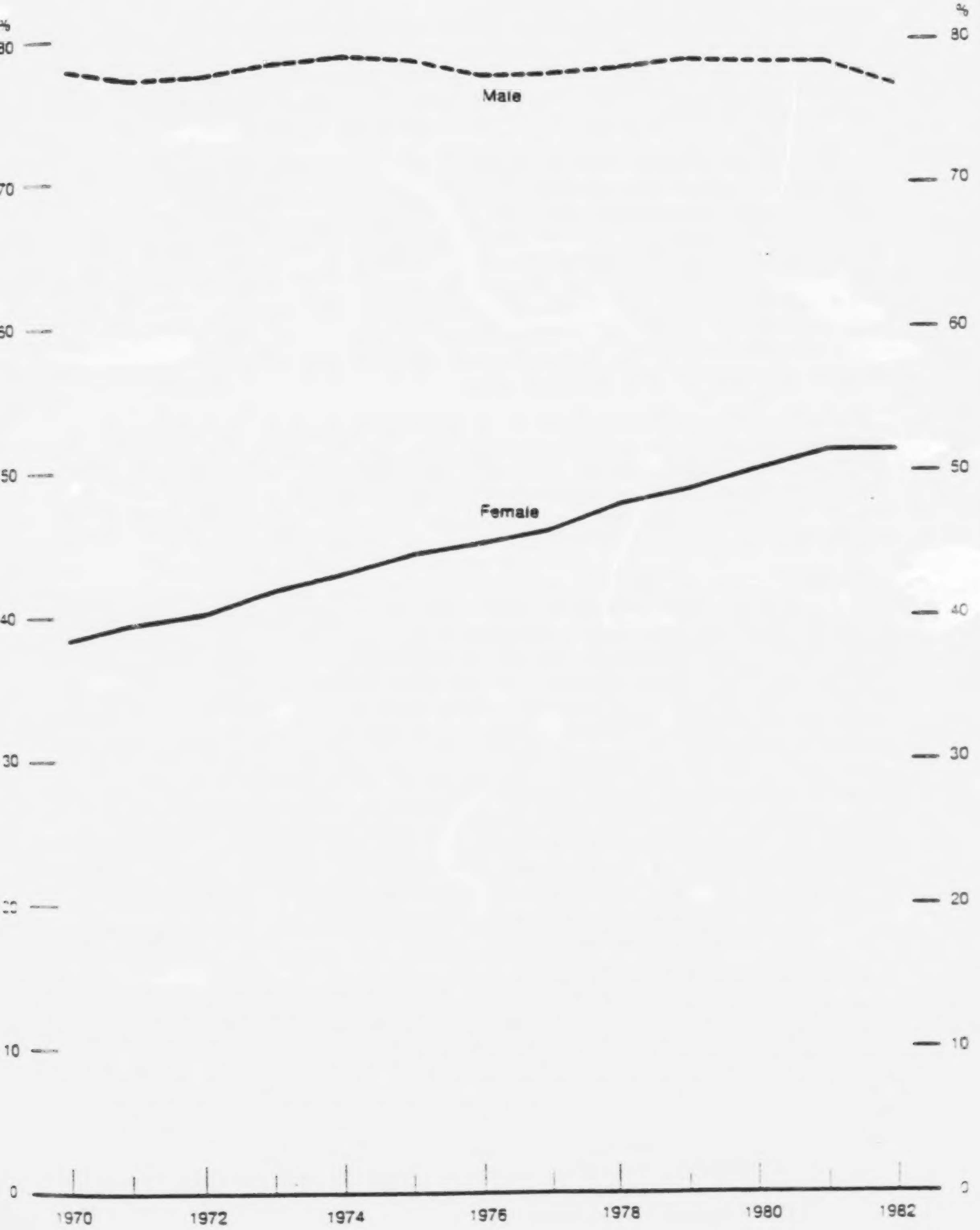
* *The participation rate represents the labour force (workers and unemployed) as a percentage of the population 15 years of age and over. The participation rate for a particular group (age, sex, marital status, etc.) is the labour force in that group expressed as a percentage of the population for that group.*



concerned, their participation rate rises continuously until the age of 54, a pattern which has shown little change over the past thirteen years. It is also interesting to note the decline in the participation rate for men 55 years of age and over. Their participation rate fell from 57.1% in 1970 to 44.5% in 1982.

If the participation rate is examined in relation to marital status it can be seen that the participation rate for married women (51.2% in 1982) is much lower than that of any other category, widows excepted. However, the greatest change in participation rate for women was an increase of 23.1% for married women compared to 6.9% for single women and 9.7% for divorced or separated women (Table 2). It is also interesting to note that the participation rate in 1982 for married women with at least one child under 16 was 54.6%, higher than the participation rate of all married women, possibly reflecting the higher mean age of all married women.

If the participation rate of women is examined in relation to presence of children it can also be seen that there is a growing trend to combining labour force activity and children. Between 1975 and 1982 the participation rate for all women with at least one child under 16 years of age present rose from 41.6% to 55.3% which represents an increase of 32.9% (Table 3).

For these women it is the youngest child's age which constitutes one of the main factors behind the variation in their participation rate. This rate grows with the increase in the age of the youngest child, from 45.6% for those with at least one child less than 3 years to 61.7% for those whose youngest child is between the ages of 6 and 15 years. The largest increase in participation rate (46.1%), occurred among women whose youngest child was under three years of age (Table 3).

These data show that women are no longer entering the labour force on a sporadic basis. They are displaying an increasing tendency to remain in the labour force after marrying or having children. Furthermore, women are increasingly joining the labour force for the same reasons as men, that is, to meet their needs and/or those of their family as well as to achieve personal goals. The following facts support this assertion.

- In 1982, 39.4% of all women in the labour force were single, widowed, separated or divorced. These women had to provide for their own needs and, in many cases, for the needs of their family. (Data from Statistics Canada, catalogue #71-001).

- In many families the economic contribution of the working wife is essential to keep the family income above the low-income threshold. A recent study by the National Council of Welfare reveals that although 9% of husband-wife families had incomes below the low-income threshold in 1975, this figure would have risen to 14% without the financial contribution of working wives. (Data from National Council of Welfare, Women and Poverty. Ottawa, 1979).

- *In 1980, over 49% of married women in the labour force had husbands who earned less than $20,000 a year. These women are making an important and essential contribution to the family income. (Data from Statistics Canada, catalogue #13-207).*

- *The increase in educational attainment among women constitutes a good indicator of the change in their personal aspirations. In 1980-81, 301,891 women and 332,637 men registered as full-time students at the post-secondary level, while in 1970-71, the figure for women was 186,031 compared to 287,160 for men. Over the 10-year period, women's enrollment at the post-secondary level has increased by 62.3% while enrollment for men increased by 15.8%. (Data provided by Education, Science and Culture Division, Statistics Canada).*

- *There is also a strong link between the level of schooling and participation of women in the labour force. The higher their level of education, the more their participation rate increases. In 1982, the participation rate for women holding university degrees was 74.4%, while the rate for women with less than nine years of schooling was only 25.4%. (Data from Statistics Canada, catalogue #71-001).*

*The degree of participation in the labour force varies from province to province. In 1982, for instance, Newfoundland had the lowest participation rates in the country, 39.9% for women and 65.6% for men. These rates were highest in Alberta, 58.2% and 83.4% respectively (Table 4).*

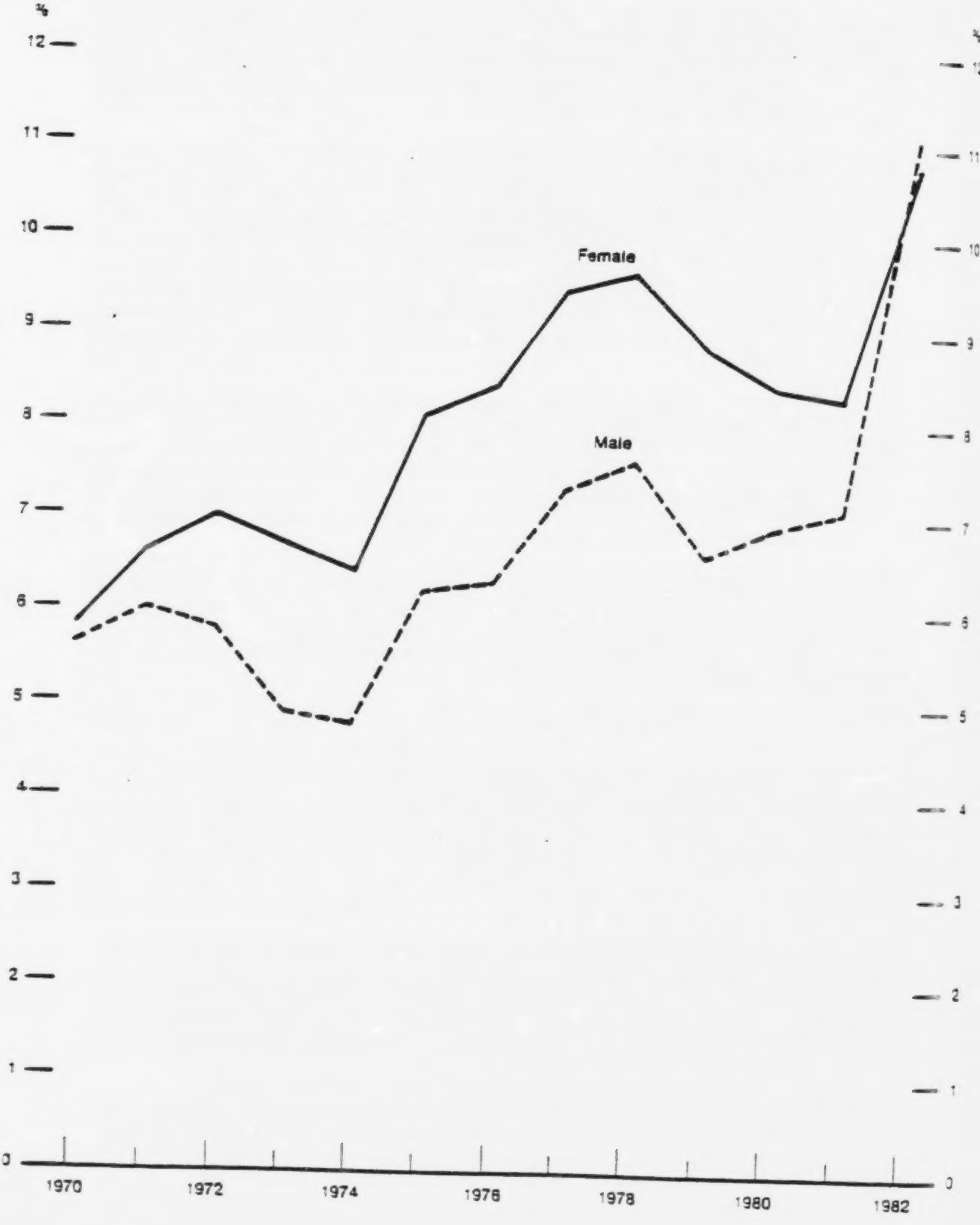
*The increase in the number of women in the labour force is being felt in all the provinces. This increase is, however, more rapid in some provinces than in others. Such was the case in Newfoundland, Manitoba, Saskatchewan and Alberta, where the increase in the participation rate between 1975 and 1982 was greater than the national average. With respect to men, their rate of participation remained relatively stable in all provinces (Table 4).*

## *UNEMPLOYMENT*

*Until quite recently women had been more severely affected by unemployment than men. There was, however, a change in this situation between 1981 and 1982, at which time the rate for men surpassed that for women. This change is mainly due to the large increase of unemployment in industries traditionally dominated by men such as primary industries and construction.*

*In general, from 1970 to 1981, the number of women among the unemployed was disproportionate in relation to the percentage of the*

**Unemployment Rate, 1970-1982**



working population they represented.* However, this difference diminished by 1982, at which point women comprised 41.2% of the working population and 40.6% of the unemployed (Table 5).

During this period, women also experienced a higher unemployment rate than men.** In 1982, however, a reversal of this situation could be observed: the overall unemployment rate for men (11.1%) exceeded that for women (10.8%) (Table 6).

Among all age groups, young people under 25 are the major victims of unemployment. The unemployment rate is, however, higher among young men than it is among young women. In 1982, young women from 15 to 19 and from 20 to 24 had unemployment rates of 18.9% and 14.3% respectively, while these rates were 24.6% and 19.0% for young men in the same age groups (Table 6).

Among adults aged 25 to 54, the situation is reversed. In 1982, women in this age group had an unemployment rate of 9.2%, as opposed to 8.5% for men (Table 6).

Single persons experienced the highest rate of unemployment, although this figure is lower for women than for men (13.2% as opposed to 19.7%, in 1982). Married women, however, have a higher unemployment rate than married men (9.7% as opposed to 7.6% in 1982) (Table 7).

The reasons why individuals left their last job vary according to sex. Statistics for 1982 reveal that "personal responsibilities" represented 7% of the reasons cited by women but less than 1% of those given by men. Although the data does not provide details about the nature of these responsibilities, it is probable that family responsibilities are involved. In addition, 10% of unemployed women are unemployed because they are entering or returning to the labour market, while only 4.2% of unemployed men are in this position. The main reason given for unemployment, however, remains loss of a job or layoff, both for women (55.7%) and men (75%) (Table 8).

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* The unemployed are defined as those persons who, during the reference week: a) were without work but had actively looked for work in the past four weeks and were available for work; b) had not actively looked for work in the last four weeks but had been on temporary layoff (less than 26 weeks) and were available for work; c) had not actively looked for work in the past four weeks but had a new job to start in four weeks or less from the reference week.

** The unemployment rate represents the number of unemployed persons as a percentage of the labour force. The unemployment rate for a particular group (age, sex, marital status, etc.) is the unemployment in that group expressed as a percentage of the labour force for that group.

Between 1975 and 1982, the unemployment rate for women and for men was highest in the maritime provinces and Quebec (Table 9).

Data on unemployment does not include individuals who had been looking for work during the last six months, but had not looked during the reference week because they believed there were no jobs available. In 1982, the number of people in this situation was 110,000, close to half of whom were women. If these people were added to the estimate of the unemployed, the resulting rate would be 11.8% for women as well as for men (Table 10).

## UNDER-EMPLOYMENT

Although it is difficult to measure under-employment exactly, the number of individuals holding a part-time job because they were unable to find any other kind of work can provide some insight as to the dimensions of the phenomenon. The under-employment problem affects more women than men. In 1982, the number of under-employed women workers was 257,000 compared to 119,000 for men (Table 11).

This phenomenon has grown in magnitude during the last five years, particularly among women. Between 1975 and 1982, the percentage of under-employed individuals among part-time workers rose from 7.5% to 16.9% for women and from 3.4% to 7.8% for men (Table 11).

## ECONOMIC ACTIVITY

The following table illustrates, for 1982, the main characteristics of the economic activity of the Canadian population 15 years of age and over.

| ECONOMIC ACTIVITY | WOMEN PERCENTAGE | MEN PERCENTAGE |
|---|---|---|
| - Employed | 46.0 | 68.4 |
| - Unemployed | 5.6 | 8.5 |
| - Not in the labour force | 48.4 | 23.1 |
| TOTAL | | |
| - Percentage | 100.0 | 100.0 |
| - Thousands | 9473 | 9100 |

Source: Statistics Canada, The Labour Force: Annual Averages 1982, catalogue #71-001, December 1982.

## Table 1. Labour Force Participation Rate by Age Group, 1970 to 1982.

| YEAR | AGE GROUP | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|
| | FEMALE | | | | | MALE | | | | |
| | 15 + | 15-19 | 20-24 | 25-54 | 55 + (1) | 15 + | 15-19 | 20-24 | 25-54 | 55 + (1) |
| | Per cent | | | | | Per cent | | | | |
| 1970 | 38.3 | 39.3 | 60.7 | 41.9 | 18.5 | 77.8 | 45.0 | 82.7 | 95.3 | 57.1 |
| 1971 | 39.4 | 40.4 | 62.3 | 43.1 | 19.0 | 77.3 | 45.4 | 82.8 | 95.2 | 53.0 |
| 1972 | 40.2 | 42.0 | 62.8 | 44.6 | 18.1 | 77.5 | 48.2 | 83.4 | 95.0 | 52.0 |
| 1973 | 41.9 | 44.8 | 64.8 | 46.4 | 18.7 | 78.2 | 51.5 | 84.6 | 95.3 | 51.1 |
| 1974 | 43.0 | 47.5 | 65.4 | 48.0 | 17.9 | 78.7 | 54.5 | 85.5 | 95.4 | 50.2 |
| 1975 | 44.4 | 47.4 | 67.0 | 50.5 | 17.6 | 78.4 | 54.6 | 85.0 | 94.8 | 50.5 |
| 1976 | 45.2 | 47.0 | 67.4 | 52.1 | 17.8 | 77.6 | 52.6 | 85.1 | 94.8 | 47.9 |
| 1977 | 46.0 | 46.6 | 68.9 | 53.6 | 17.9 | 77.6 | 54.0 | 85.2 | 94.9 | 47.5 |
| 1978 | 47.8 | 48.0 | 70.3 | 56.6 | 18.2 | 77.9 | 54.8 | 85.8 | 95.0 | 47.1 |
| 1979 | 48.9 | 50.8 | 71.3 | 57.8 | 18.5 | 78.4 | 57.2 | 86.4 | 95.1 | 46.9 |
| 1980 | 50.3 | 52.2 | 73.0 | 60.1 | 18.3 | 78.3 | 58.0 | 86.2 | 94.8 | 46.3 |
| 1981 | 51.6 | 53.1 | 73.0 | 62.7 | 18.2 | 78.3 | 59.2 | 86.3 | 94.9 | 45.4 |
| 1982 | 51.6 | 50.4 | 73.1 | 63.5 | 18.1 | 76.9 | 53.7 | 84.3 | 93.9 | 44.5 |

Note: (1) From 1970 to 1974, the participation rate has been calculated from Historical Labour Force Statistics, catalogue 71-201, 1981.

Sources: Historical Labour Force Statistics, Catalogue 71-201 Annual, 1981.
The Labour Force, 1982 Annual Averages, Catalogue 71-001, December 1982.

## Table 2. Labour Force Participation Rate by Marital Status, 1975 to 1982.

| Sex and Marital Status | YEAR | | | | | | | |
|---|---|---|---|---|---|---|---|---|
| | 1975 | 1976 | 1977 | 1978 | 1979 | 1980 | 1981 | 1982 |
| **FEMALE** | Per cent | | | | | | | |
| Married | 41.6 | 42.9 | 44.2 | 46.3 | 47.4 | 48.9 | 50.5 | 51.2 |
| Single | 59.2 | 58.8 | 59.0 | 60.5 | 61.8 | 63.3 | 64.8 | 65.3 |
| Widowed | 19.4 | 18.9 | 18.7 | 19.1 | 19.3 | 17.7 | 18.2 | 17.0 |
| Divorced, Separated | 58.6 | 59.3 | 59.8 | 60.1 | 61.5 | 64.2 | 64.2 | 64.3 |
| **MALE** | Per cent | | | | | | | |
| Married | 85.1 | 84.4 | 84.0 | 84.0 | 83.9 | 83.5 | 83.3 | 82.1 |
| Single | 66.9 | 66.1 | 67.1 | 67.9 | 69.8 | 70.8 | 71.3 | 69.0 |
| Widowed | 30.9 | 29.4 | 30.9 | 31.4 | 29.3 | 26.4 | 26.1 | 25.6 |
| Divorced, Separated | 76.8 | 77.5 | 76.0 | 78.5 | 78.1 | 78.1 | 79.4 | 79.2 |

Sources: The Labour Force, 1979, 1980, 1981 and 1982 Annual Averages, Catalogue 71-001 Monthly.
Labour Force Annual Averages 1975-1978, Catalogue 71-529 Occasional.
Unpublished Data from Labour Force Survey Group, Activity Section.

able 3. Labour Force Participation Rate of Mothers (with Own Children under 16 Years) by Age of Children, 1975 to 1982.

| AGE of CHILDREN | YEAR | | | | | | | |
|---|---|---|---|---|---|---|---|---|
| | 1975 | 1976 | 1977 | 1978 | 1979 | 1980 | 1981 | 1982 |
| | Per cent | | | | | | | |
| With at least one child less than 3 years. | 31.2 | 31.7 | 34.0 | 37.6 | 39.4 | 41.7 | 44.5 | 45.6 |
| Without children less than 3 years but at least one aged 3-5 years. | 40.0 | 40.9 | 42.5 | 46.1 | 47.8 | 50.1 | 52.4 | 53.4 |
| Without children less than 6 years but at least one aged 6-15 years. | 48.2 | 50.0 | 51.9 | 54.3 | 55.6 | 58.2 | 61.1 | 61.7 |
| With children under 16 years. | 41.2 | 43.0 | 44.9 | 48.0 | 49.4 | 51.5 | 54.5 | 55.3 |

Sources: Unpublished Data from Labour Force Survey, Activity Section.
The Labour Force, Catalogue 71-001 Monthly, May 1982.

## Table 4. Labour Force Participation Rate by Province, 1975 to 1982.

| Sex and Year | Newfound-land | Prince Edward Island | Nova Scotia | New Brunswick | Quebec | Ontario | Manitoba | Saskat-chewan | Alberta | British Columbia | CANAD |
|---|---|---|---|---|---|---|---|---|---|---|---|
| FEMALE | Per cent | | | | | | | | | | |
| 1975 | 31.2 | 41.4 | 39.1 | 38.0 | 40.1 | 48.6 | 43.4 | 40.3 | 49.6 | 45.2 | 44. |
| 1976 | 31.8 | 41.7 | 39.4 | 38.0 | 41.1 | 49.0 | 45.6 | 43.0 | 50.7 | 45.8 | 45. |
| 1977 | 34.2 | 43.0 | 40.1 | 38.6 | 42.2 | 49.8 | 46.7 | 44.1 | 51.2 | 45.9 | 46. |
| 1978 | 35.8 | 44.5 | 42.0 | 40.8 | 43.9 | 51.5 | 48.6 | 45.1 | 53.1 | 48.3 | 47. |
| 1979 | 36.2 | 46.2 | 42.1 | 41.0 | 44.5 | 53.3 | 49.3 | 46.5 | 54.6 | 48.6 | 48. |
| 1980 | 37.9 | 46.7 | 44.1 | 42.8 | 46.0 | 54.3 | 51.1 | 46.8 | 56.7 | 49.7 | 50. |
| 1981 | 38.5 | 47.2 | 45.3 | 44.0 | 47.0 | 55.6 | 52.2 | 48.3 | 58.5 | 51.9 | 51. |
| 1982 | 39.9 | 46.3 | 45.4 | 43.1 | 45.9 | 55.9 | 53.7 | 49.6 | 58.2 | 52.1 | 51. |
| MALE | Per cent | | | | | | | | | | |
| 1975 | 67.1 | 72.2 | 72.5 | 70.0 | 77.8 | 80.3 | 79.0 | 78.0 | 82.4 | 77.2 | 78. |
| 1976 | 66.6 | 72.4 | 71.9 | 69.7 | 76.4 | 79.3 | 77.5 | 77.9 | 83.0 | 77.1 | 77. |
| 1977 | 66.8 | 71.5 | 71.2 | 69.4 | 76.4 | 79.4 | 77.2 | 78.4 | 82.7 | 77.5 | 77. |
| 1978 | 67.2 | 71.7 | 71.6 | 69.7 | 76.2 | 80.1 | 78.3 | 78.8 | 83.2 | 77.3 | 77. |
| 1979 | 68.7 | 72.9 | 72.6 | 70.1 | 76.5 | 80.6 | 78.8 | 79.7 | 84.1 | 77.4 | 78. |
| 1980 | 67.9 | 72.8 | 72.5 | 69.6 | 76.8 | 79.9 | 78.7 | 79.1 | 83.9 | 78.1 | 78. |
| 1981 | 67.4 | 71.4 | 71.1 | 69.9 | 76.1 | 80.5 | 78.4 | 78.7 | 84.7 | 77.9 | 78. |
| 1982 | 65.6 | 70.6 | 70.5 | 68.3 | 74.2 | 79.4 | 77.2 | 78.0 | 83.4 | 76.1 | 76. |

Sources: Historical Labour Force Statistics, Catalogue 71-201 Annual, 1981.
The Labour Force, 1982 Annual Averages, Catalogue 71-001, December 1982.

### Table 5. Female as a Percentage of Employed and Unemployed Population, 1970 to 1982.

| YEAR | FEMALE | |
|---|---|---|
| | Employment | Unemployment |
| | Per cent | |
| 1970 | 33.6 | 34.5 |
| 1971 | 34.2 | 36.8 |
| 1972 | 34.6 | 39.1 |
| 1973 | 35.2 | 42.7 |
| 1974 | 35.7 | 43.0 |
| 1975 | 36.4 | 43.3 |
| 1976 | 37.1 | 44.3 |
| 1977 | 37.5 | 44.4 |
| 1978 | 38.3 | 44.8 |
| 1979 | 38.8 | 46.1 |
| 1980 | 39.7 | 44.8 |
| 1981 | 40.3 | 44.7 |
| 1982 | 41.2 | 40.6 |

Sources: Historical Labour Force Statistics, Catalogue 71-201 Annual, 1981.
The Labour Force, 1982 Annual Averages, Catalogue 71-001, December 1982.

## Table 6. Unemployment Rate by Age Group, 1970 to 1982.

| YEAR | AGE GROUP | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|
| | FEMALE | | | | | MALE | | | | |
| | 15 + | 15-19 | 20-24 | 25-54 | 55 + (1) | 15 + | 15-19 | 20-24 | 25-54 | 55 + (1) |
| | Per cent | | | | | Per cent | | | | |
| 1970 | 5.8 | 12.5 | 5.8 | 4.5 | 4.4 | 5.6 | 15.1 | 8.8 | 3.9 | 4.8 |
| 1971 | 6.6 | 13.6 | 7.1 | 5.3 | 3.6 | 6.0 | 16.3 | 9.3 | 4.2 | 4.9 |
| 1972 | 7.0 | 12.4 | 7.4 | 5.9 | 4.6 | 5.8 | 15.3 | 9.6 | 4.0 | 4.4 |
| 1973 | 6.7 | 11.7 | 7.3 | 5.6 | 4.6 | 4.9 | 12.6 | 8.2 | 3.3 | 3.9 |
| 1974 | 6.4 | 10.9 | 7.4 | 5.3 | 4.1 | 4.8 | 12.1 | 7.7 | 3.2 | 3.5 |
| 1975 | 8.1 | 14.4 | 9.1 | 6.8 | 4.7 | 6.2 | 15.4 | 10.5 | 4.3 | 4.2 |
| 1976 | 8.4 | 15.1 | 9.8 | 7.0 | 4.4 | 6.3 | 16.3 | 11.1 | 4.3 | 3.7 |
| 1977 | 9.4 | 16.7 | 11.7 | 7.8 | 5.0 | 7.3 | 18.1 | 12.6 | 5.0 | 4.5 |
| 1978 | 9.6 | 17.2 | 11.5 | 8.1 | 5.0 | 7.6 | 18.5 | 12.7 | 5.3 | 4.8 |
| 1979 | 8.8 | 15.8 | 10.4 | 7.4 | 4.5 | 6.6 | 16.4 | 11.1 | 4.6 | 4.1 |
| 1980 | 8.4 | 15.3 | 10.7 | 6.8 | 4.6 | 6.9 | 17.1 | 11.5 | 4.9 | 3.9 |
| 1981 | 8.3 | 15.5 | 10.1 | 7.1 | 4.0 | 7.1 | 17.0 | 12.3 | 5.0 | 4.0 |
| 1982 | 10.8 | 18.9 | 14.3 | 9.2 | 6.0 | 11.1 | 24.6 | 19.0 | 8.5 | 6.3 |

Note: (1) From 1970 to 1974, the unemployment rate has been calculated from Historical Labour Force Statistics, catalogue 71-201, 1981.

Sources: Historical Labour Force Statistics, Catalogue 71-201 Annual, 1981.
The Labour Force, 1982 Annual Averages, Catalogue 71-001, December 1982.

Table 7. Unemployment Rate by Marital Status, 1975 to 1982.

| Sex and Marital Status | 1975 | 1976 | 1977 | 1978 | 1979 | 1980 | 1981 | 1982 |
|---|---|---|---|---|---|---|---|---|
| FEMALE | | | | Per cent | | | | |
| Married | 7.9 | 8.0 | 8.9 | 9.1 | 8.0 | 7.5 | 7.6 | 9.7 |
| Single | 9.1 | 9.5 | 11.0 | 11.0 | 10.4 | 10.2 | 10.1 | 13.2 |
| Divorced, Separated and Widowed | 6.4 | 7.4 | 7.7 | 8.8 | 8.2 | 8.6 | 7.3 | 10.7 |
| MALE | | | | Per cent | | | | |
| Married | 4.0 | 3.9 | 4.5 | 4.8 | 4.1 | 4.3 | 4.4 | 7.6 |
| Single | 12.2 | 12.9 | 14.6 | 14.8 | 13.0 | 13.2 | 13.4 | 19.7 |
| Divorced, Separated and Widowed | 8.2 | 7.9 | 8.5 | 9.5 | 7.9 | 8.8 | 8.8 | 12.8 |

Sources:Historical Labour Force Statistics, Catalogue 71-201 Annual, 1981.
The Labour Force, 1982 Annual Averages, Catalogue 71-001, December 1982.

## Table 8. Unemployed Population by Reason for Leaving Last Job, 1982.

| REASON | Unemployed Population | | | |
|---|---|---|---|---|
| | Female | Male | Female | Male |
| | Thousands | | Per cent | |
| Own Illness | 20 | 21 | 3.8 | 2.7 |
| Personal Responsibilities | 37 | 7 | 7.0 | .9 |
| School | 27 | 39 | 5.1 | 5.0 |
| Lost Job or Laid Off | 295 | 581 | 55.7 | 75.0 |
| Retired | ...(1) | 8 | ... | 1.0 |
| Other Reasons | 95 | 86 | 17.9 | 11.1 |
| Not Worked in Last 5 Years | 22 | 5 | 4.2 | .6 |
| Never Worked | 31 | 28 | 5.8 | 3.6 |
| TOTAL | 530 | 775 | 100.0 | 100.0 |

Note: (1) Means estimates less than 4000 persons.

Sources: The Labour Force, 1981 Annual Averages, Catalogue 71-001, December 1982.
Labour Force Annual Averages 1975-1978, Catalogue 71-529 Occasional.

## Table 9. Unemployment Rate by Province, 1975 to 1982.

| Sex and Year | PROVINCE<br>Newfound-land | Prince Edward Island | Nova Scotia | New Brunswick | Quebec | Ontario | Manitoba | Saskat-chewan | Alberta | British Columbia | CANADA |
|---|---|---|---|---|---|---|---|---|---|---|---|
| FEMALE | Per cent | | | | | | | | | | |
| 1975 | 14.7 | ...(1) | 8.7 | 11.4 | 9.1 | 7.8 | 5.5 | 4.4 | 5.3 | 9.4 | 8.1 |
| 1976 | 13.6 | ... | 10.2 | 12.0 | 9.7 | 7.8 | 5.0 | 5.4 | 4.8 | 10.5 | 8.4 |
| 1977 | 15.3 | ... | 11.6 | 14.8 | 11.5 | 8.6 | 6.7 | 5.6 | 5.3 | 10.4 | 9.4 |
| 1978 | 16.7 | ... | 11.2 | 13.8 | 12.1 | 8.9 | 7.4 | 6.1 | 5.8 | 9.7 | 9.6 |
| 1979 | 16.1 | ... | 11.7 | 12.5 | 11.1 | 7.8 | 6.3 | 5.4 | 4.9 | 9.3 | 8.8 |
| 1980 | 13.6 | ... | 10.5 | 11.9 | 10.7 | 7.7 | 6.1 | 5.6 | 4.3 | 8.5 | 8.4 |
| 1981 | 14.1 | ... | 11.0 | 12.0 | 11.3 | 7.3 | 6.5 | 5.7 | 4.2 | 7.7 | 8.3 |
| 1982 | 15.9 | ... | 13.3 | 13.9 | 14.0 | 9.8 | 8.0 | 6.4 | 7.2 | 11.7 | 10.8 |
| MALE | PROVINCE<br>Per cent | | | | | | | | | | |
| 1975 | 13.6 | ... | 7.2 | 8.8 | 7.5 | 5.4 | 4.0 | 2.1 | 3.5 | 8.0 | 6.2 |
| 1976 | 13.2 | ... | 9.1 | 10.4 | 8.1 | 5.1 | 4.4 | 3.1 | 3.4 | 7.6 | 6.3 |
| 1977 | 15.8 | ... | 10.0 | 12.4 | 9.6 | 5.9 | 5.4 | 3.8 | 4.0 | 7.3 | 7.3 |
| 1978 | 16.3 | ... | 10.1 | 11.9 | 10.2 | 6.2 | 6.0 | 4.2 | 4.3 | 7.3 | 7.6 |
| 1979 | 15.0 | ... | 9.2 | 10.3 | 8.7 | 5.6 | 4.7 | 3.4 | 3.2 | 6.6 | 6.6 |
| 1980 | 13.5 | ... | 9.4 | 10.6 | 9.3 | 6.2 | 5.1 | 3.7 | 3.2 | 5.7 | 6.9 |
| 1981 | 14.1 | ... | 9.6 | 11.5 | 9.8 | 6.0 | 5.6 | 4.0 | 3.4 | 6.0 | 7.1 |
| 1982 | 17.5 | 13.1 | 13.2 | 14.4 | 13.7 | 9.8 | 8.8 | 6.0 | 7.7 | 12.4 | 11.1 |

Note: (1) Means estimates less than 4000 persons.

Sources: Historical Labour Force Statistics, Catalogue 71-201 Annual, 1981.
The Labour Force, 1982 Annual Averages, Catalogue 71-001, December 1982.

Table 10. Persons Believing No Work Available(1), 1976 to 1982.

| YEAR | FEMALE | MALE |
|---|---|---|
| | Thousands | |
| 1976 | 16 | 17 |
| 1977 | 23 | 22 |
| 1978 | 28 | 25 |
| 1979 | 25 | 24 |
| 1980 | 27 | 26 |
| 1981 | 27 | 30 |
| 1982 | 51 | 59 |

Note: (1) Defined as those individuals who looked for work in the past six months but not in the reference week because they believed no work was available.

Sources: The Labour Force, 1979 to 1982 Annual Averages Catalogue 71-001 Monthly.
Labour Force Annual Averages 1975-1978, Catalogue 71-529 Occasional.

Table 11. Underemployed Workers and their Percentage of Total Part-Time Workers, 1975 to 1982.

| YEAR | Underemployed workers (1) | | | Underemployed workers as a per cent of the total part-time workers | | |
|---|---|---|---|---|---|---|
| | Female | Male | Both Sexes | Female | Male | Both Sexes |
| | Thousands | | | Per cent | | |
| 1975 | 74 | 34 | 109 | 7.5 | 3.4 | 11.0 |
| 1976 | 86 | 39 | 126 | 8.2 | 3.7 | 12.0 |
| 1977 | 112 | 50 | 162 | 9.9 | 4.4 | 14.3 |
| 1978 | 137 | 61 | 198 | 11.3 | 5.0 | 16.4 |
| 1979 | 159 | 64 | 223 | 12.2 | 4.9 | 17.1 |
| 1980 | 171 | 73 | 245 | 12.3 | 5.3 | 17.7 |
| 1981 | 184 | 83 | 267 | 12.5 | 5.6 | 18.1 |
| 1982 | 257 | 119 | 376 | 16.9 | 7.8 | 24.7 |

Note: (1) Defined as those individuals who could only find part-time work.

Sources: The Labour Force, 1979 to 1982 Annual Averages, Catalogue 71-001, Monthly.
Labour Force Annual Averages, 1975-1978, Catalogue 71-529 Occasional.

ARTICLE 11.1 (b)

States Parties... shall ensure, on a basis of equality of men and women, the same rights, in particular:

(b) The right to the same employment opportunities, including the application of the same criteria for selection in matters of employment;

## *STATISTICAL DIGEST: ARTICLE 11.1 (b)*

### *PART-TIME WORK*

*The sustained increase in the number of women in the labour force has not been matched by significant improvements in their position within the labour market. In 1982, 25.1% of women workers held part-time jobs, while this rate was only 6.9% for male workers. Hence, women comprise more than 70% of part-time workers but only 36% of full-time workers (Table 12).*

*In addition, the number of part-time jobs is growing rapidly. From 1975 to 1981, the number of people working part-time increased much more rapidly than the number of people holding full-time jobs. This growth in the number of part-time workers also continued between 1981 and 1982 while, during the same period, a decrease in the number of full-time workers was observed. Between 1975 and 1982, the proportion of part-time workers increased from 20.3% to 25.1% for women and from 5.1% to 6.9% for men (Table 12).*

*The profile of part-time workers varies greatly according to sex. The female part-time labour force is composed of a large proportion of women aged 25 to 44 (41.2%) and of a majority of married women (63.1%). The male part-time labour force, on the other hand, comprises mainly young men aged 15 to 24 (69.8%) and single men (72.9%) (Table 13).*

*Judging from the data on the profile of part-time workers, it may be assumed that the women are those with family and parental responsibilities while the men are mainly students. It is therefore not surprising that the reasons given for holding a part-time job differ according to sex. Among women, the refusal to work full-time is the reason most often cited (41% in 1982), while school attendance is the reason most often given by men (48.7% in 1982) (Table 14).*

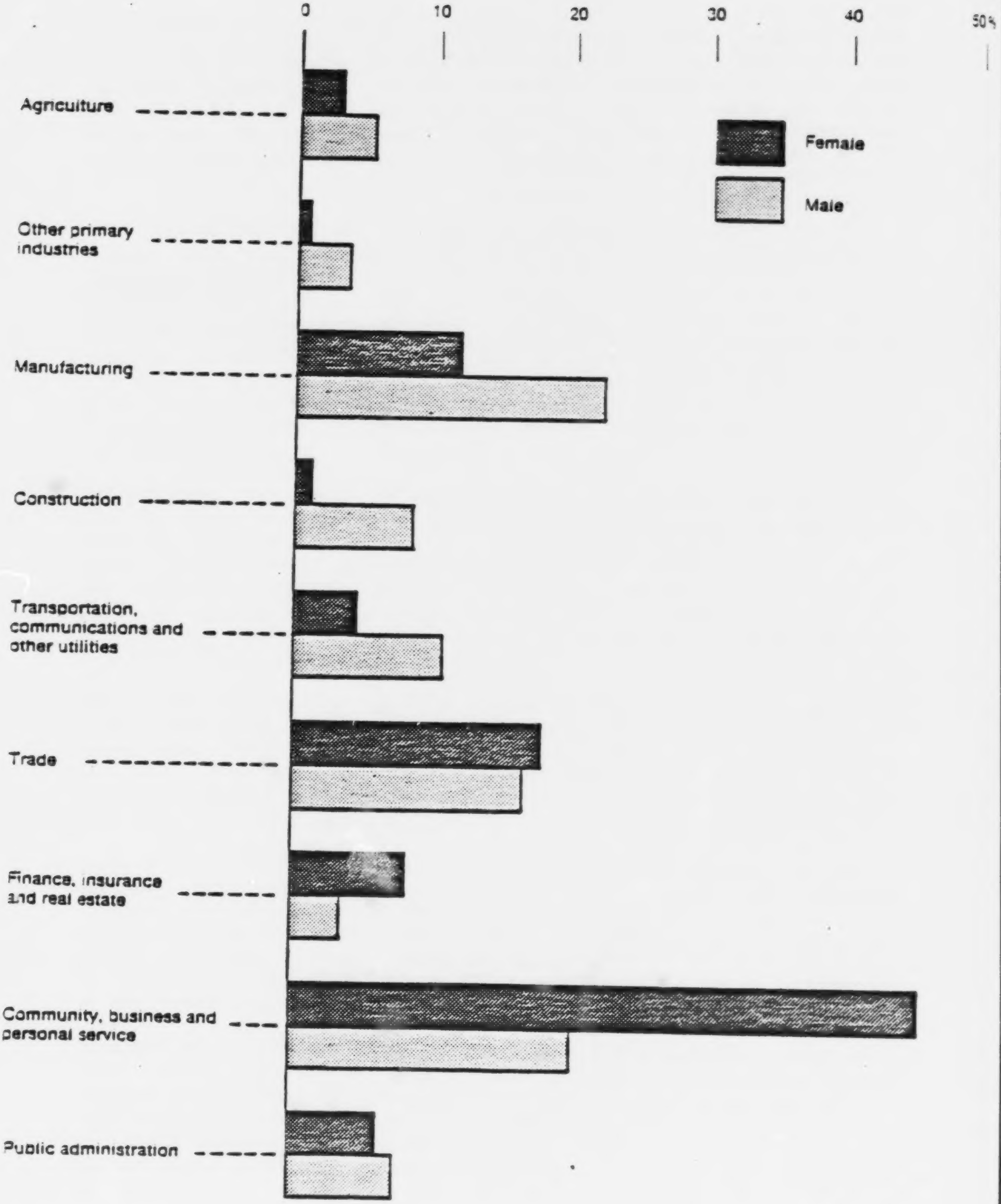
*Nonetheless, part-time work affects women more severely than men. This form of work is not always taken as a first choice, but rather because nothing else is available. In 1982, 257,000 women and 119,000 men were in this position. In addition, 13.7% of women worked part-time because of personal or family responsibilities, while men almost never cited this reason (Table 14).*

## *INDUSTRIAL/OCCUPATIONAL SEGREGATION*

*Part-time work is particularly common in industries and occupations offering mainly unskilled jobs where working conditions are often poor. In 1982, over 75% of part-time workers belonged to two of the eight industry categories; community, business and personal services (48.8%) and trade (28.4%). These workers are also concentrated in a few occupations: services (27.9%), clerical (22.8%) and sales (15.9%), which together represent 66.6% of all part-time workers (Tables 15-16).*

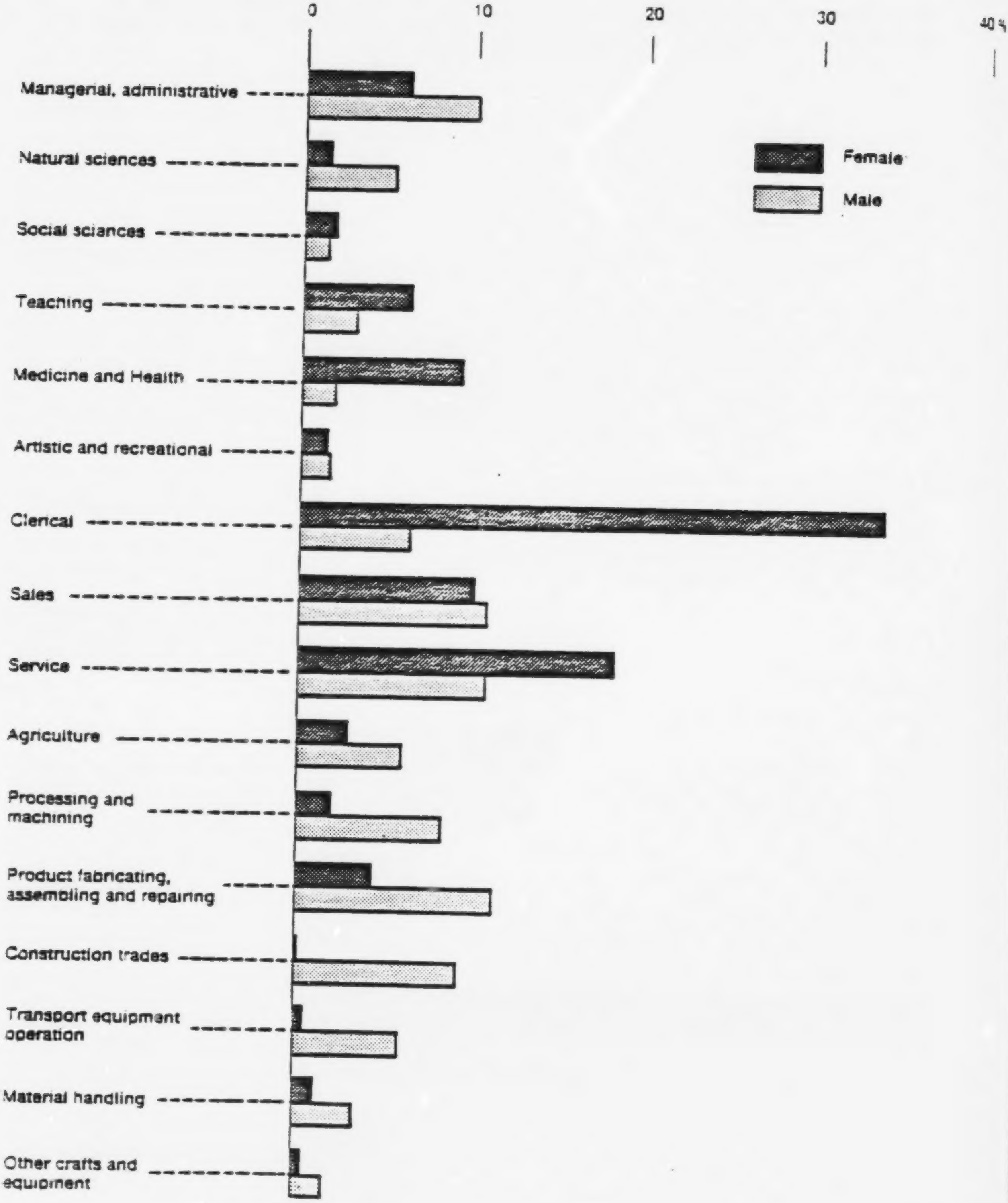
*Despite increased participation by women in the labour market, the nature of their work remains relatively unchanged. They remain largely concentrated in a limited number of jobs traditionally held by women. In 1982, over three quarters of female workers were employed in three main areas: community, business and personal services (45.3%), trades (18.1%) and manufacturing (12%) (Table 17).*

**Distribution of Employment by Industry, 1982**



*Women are also confined to a limited number of occupations: clerical (34%), services (18.2%), and sales (10.2%) as well as those related to medicine and health (9.2%). Over 72% of all women in the work force are engaged in these four occupations (Table 18).*

Distribution of Employment by Occupation, 1982



### Table 12. Employed Population by Full-Time and Part-Time Employment, 1975 to 1982.

| Sex and Employment | 1975 | 1976 | 1977 | 1978 | 1979 | 1980 | 1981 | 1982 |
|---|---|---|---|---|---|---|---|---|
| **FEMALE** | | | | Per cent | | | | |
| Full-time | 79.6 | 78.9 | 77.9 | 77.4 | 76.7 | 76.2 | 75.9 | 74.9 |
| Part-time | 20.3 | 21.1 | 22.1 | 22.6 | 23.2 | 23.8 | 24.1 | 25.1 |
| Total Per cent | 100.0 | 100.0 | 100.0 | 100.0 | 100.0 | 100.0 | 100.0 | 100.0 |
| Thousands | 3384 | 3515 | 3617 | 3824 | 4022 | 4225 | 4411 | 4354 |
| **MALE** | | | | Per cent | | | | |
| Full-time | 94.9 | 94.9 | 94.5 | 94.4 | 94.2 | 94.1 | 93.7 | 93.1 |
| Part-time | 5.1 | 5.1 | 5.5 | 5.6 | 5.8 | 5.9 | 6.3 | 6.9 |
| Total Per cent | 100.0 | 100.0 | 100.0 | 100.0 | 100.0 | 100.0 | 100.0 | 100.0 |
| Thousands | 5903 | 5965 | 6031 | 6148 | 6347 | 6430 | 6522 | 6220 |
| **BOTH SEXES** | | | | Per cent | | | | |
| Full-time | 89.4 | 89.0 | 88.3 | 87.9 | 87.4 | 87.0 | 86.5 | 85.6 |
| Part-time | 10.6 | 11.0 | 11.7 | 12.1 | 12.5 | 13.0 | 13.5 | 14.4 |
| Total Per cent | 100.0 | 100.0 | 100.0 | 100.0 | 100.0 | 100.0 | 100.0 | 100.0 |
| Thousands | 9284 | 9479 | 9648 | 9972 | 10369 | 10655 | 10933 | 10574 |

Sources: The Labour Force, 1979 to 1982 Annual Averages, Catalogue 71-001, Monthly.
Labour Force Annual Averages 1975-1978, Catalogue 71-529 Occasional.

Table 13. Part-Time Workers by Selected Characteristics: Age Group and Marital Status, 1982.

| SELECTED CHARACTE-RISTICS. | FEMALE | MALE |
|---|---|---|
| AGE GROUP | Per cent | Per cent |
| 15-24 | 33.3 | 69.8 |
| 25-44 | 41.2 | 12.5 |
| 45-54 | 14.5 | 3.7 |
| 55-64 | 8.8 | 5.8 |
| 65 + | 2.2 | 8.1 |
| TOTAL | | |
| Per cent | 100.0 | 100.0 |
| Thousands | 1091 | 431 |
| MARITAL STATUS | Per cent | Per cent |
| Married | 63.1 | 24.8 |
| Single | 30.8 | 72.9 |
| Divorced, separated, widowed | 6.1 | 2.3 |
| TOTAL | | |
| Per cent | 100.0 | 100.0 |
| Thousands | 1091 | 431 |

Source: The Labour Force, 1982 Annual Averages, Catalogue 71-001, December 1982.

Table 14.Part-Time Workers by Reason for Part-Time Work, 1982.

| REASON | FEMALE | | MALE | |
|---|---|---|---|---|
| | Thousands | Per cent | Thousands | Per cent |
| Personal or family responsibilities | 150 | 13.7 | ...(1) | ... |
| Going to school | 205 | 18.8 | 210 | 48.7 |
| Could only find part-time work | 257 | 23.6 | 119 | 27.6 |
| Did not want full-time work | 447 | 41.0 | 67 | 15.5 |
| Other reasons | 32 | 2.9 | 33 | 7.7 |
| TOTAL | 1091 | 100.0 | 431 | 100.0 |

Note: (1) Means estimates less than 4000 persons.

Source: The Labour Force, 1982 Annual Averages, Catalogue 71-001, December 1982.

## Table 15. Part-Time Workers by Industy, 1982.

| INDUSTRY | PART-TIME WORKERS |  | Female as a % of total part-time workers |
|---|---|---|---|
|  | BOTH SEXES | FEMALE |  |
|  | Per cent |  | Per cent |
| Goods Producing Industries |  |  |  |
| Agriculture | 5.4 | 4.4 | 58.5 |
| Other Primary Industries | .5 | ...(1) | ... |
| Manufacturing | 4.7 | 3.9 | 60.6 |
| Construction | 2.6 | 1.6 | 42.5 |
| Service Producing Industries |  |  |  |
| Transportation, Communication and other Utilities | 3.2 | 2.5 | 55.1 |
| Trade | 28.4 | 27.7 | 69.9 |
| Finance, Insurance and Real Estate | 3.7 | 4.0 | 77.2 |
| Community, Business and Personal Service | 46.8 | 53.0 | 77.9 |
| Public Administration | 2.8 | 2.5 | 64.3 |
| ALL INDUSTRIES |  |  |  |
| Per cent | 100.0 | 100.0 | 71.7 |
| Thousands | 1522 | 1091 |  |

Note: (1) Means estimates less than 4000 persons.

Source: The Labour Force, 1982 Annual Averages, Catalogue 71-001, December 1983.

## Table 16. Part-Time Workers by Occupation, 1982.

| OCCUPATION | PART-TIME WORKERS<br>BOTH SEXES | <br>FEMALE | Female as a % of total part-time workers |
|---|---|---|---|
| | Per cent | | Per cent |
| Managerial, Administrative | 1.7 | 1.7 | 73.1 |
| Natural Sciences | .6 | .5 | 55.6 |
| Social Sciences | 1.2 | 1.4 | 83.3 |
| Religion | ...(1) | ... | ... |
| Teaching | 4.7 | 5.4 | 83.1 |
| Medicine & Health | 7.2 | 9.3 | 93.6 |
| Artistic and Recreational | 2.2 | 1.7 | 57.6 |
| Clerical | 22.8 | 29.0 | 90.8 |
| Sales | 15.9 | 15.4 | 69.4 |
| Service | 27.9 | 27.6 | 71.0 |
| Agriculture | 5.4 | 3.8 | 50.0 |
| Forestry & Logging, Fishing, Hunting and Trapping | ... | ... | ... |
| Mining and Quarrying | ... | ... | ... |
| Processing & Machining | 1.2 | .6 | 36.8 |
| Product Fabricating, Assembling and Repairing | 2.0 | 1.2 | 43.3 |
| Construction Trades | 1.6 | ... | ... |
| Transport Equipment Operation | 1.8 | .7 | 29.6 |
| Material Handling | 2.9 | .8 | 20.5 |
| Other Crafts and Equipment | .5 | .5 | 62.5 |
| ALL OCCUPATIONS | | | |
| Per cent | 100.0 | 100.0 | 71.7 |
| Thousands | 1522 | 1091 | |

Note: (1) Means estimates less than 4000 persons.

Sources: The Labour Force, 1982 Annual Averages, Catalogue 71-001, December 1982.
Unpublished Data from Labour Force Survey Group, Activity Section.

## Table 17. Employment by Industry, 1982.

| INDUSTRY | EMPLOYMENT DISTRIBUTION | | Female as a % of total employment |
|---|---|---|---|
| | FEMALE | MALE | |
| | Per cent | | Per cent |
| Goods Producing Industries | | | |
| Agriculture | 3.0 | 5.4 | 27.7 |
| Other Primary Industries | .7 | 3.7 | 11.1 |
| Manufacturing | 12.0 | 22.6 | 27.2 |
| Construction | 1.3 | 8.6 | 9.5 |
| Service Producing Industries | | | |
| Transportation, Communication and other Utilities | 4.5 | 10.9 | 22.5 |
| Trade | 18.1 | 16.9 | 42.8 |
| Finance, Insurance and Real Estate | 8.4 | 3.8 | 60.6 |
| Community, Business and Personal Service | 45.6 | 20.4 | 61.0 |
| Public Administration | 6.5 | 7.7 | 37.1 |
| ALL INDUSTRIES | | | |
| Per cent | 100.0 | 100.0 | 41.2 |
| Thousands | 4354 | 6220 | |

Source: The Labour Force, 1982 Annual Averages, Catalogue 71-001, December 1982.

## Table 18. Employment by Occupation, 1982.

| OCCUPATION | EMPLOYMENT DISTRIBUTION |  | Female as a % of total employment |
|---|---|---|---|
|  | FEMALE | MALE |  |
|  | Per cent |  | Per cent |
| Managerial, Administrative | 6.0 | 10.2 | 29.1 |
| Natural Sciences | 1.3 | 5.2 | 14.7 |
| Social Sciences | 1.9 | 1.4 | 47.7 |
| Religion | .1 | .4 | 14.8 |
| Teaching | 6.2 | 3.0 | 59.2 |
| Medicine & Health | 9.2 | 1.9 | 76.9 |
| Artistic and Recreational | 1.4 | 1.6 | 39.0 |
| Clerical | 34.0 | 6.4 | 78.8 |
| Sales | 10.2 | 10.8 | 39.7 |
| Service | 18.2 | 10.7 | 54.3 |
| Agriculture | 2.7 | 5.9 | 24.2 |
| Forestry & Logging, Fishing, Hunting and Trapping | ...(1) | 1.3 | ... |
| Mining and Quarrying | ... | .9 | ... |
| Processing & Machining | 2.0 | 8.3 | 14.2 |
| Product Fabricating, Assembling and Repairing | 4.4 | 11.5 | 21.1 |
| Construction Trades | .2 | 9.3 | 1.4 |
| Transport Equipment Operation | .6 | 6.0 | 6.0 |
| Material Handling | 1.2 | 3.3 | 20.7 |
| Other Crafts and Equipment | .6 | 1.8 | 17.3 |
| ALL OCCUPATIONS |  |  |  |
| Per cent | 100.0 | 100.0 | 41.2 |
| Thousands | 4354 | 6220 |  |

Note: (1) Means estimates less than 4000 persons.

Source: The Labour Force, 1982 Annual Averages, Catalogue 71-001, December 1982.

ARTICLE 11.1(c)

> States Parties shall... ensure, on a basis of equality of men and women, the same rights, in particular:
>
> (c) The right to free choice of profession and employment, the right to promotion, job security and all benefits and conditions of service and the right to receive vocational training and retraining, including apprenticeships, advanced vocational training and recurrent training;

The employment rights specified in subarticle 11.1(c) are protected under human rights legislation in each of the federal and provincial jurisdictions. In the two territories, the operative provisions are to be found in the Fair Practices Ordinance or Act. Generally speaking, the human rights codes provide that, in matters of employment and the provision of goods, services and accommodation, all individuals shall be treated equally and without discrimination on the basis of sex, marital status, age, race, colour, national or ethnic origin (ancestry, nationality, place of origin) and religion (creed). Certain jurisdictions bar discrimination on the grounds of family status, physical and/or mental handicap and political belief.

To summarize the federal legislation as an example, it is a discriminatory practice to refuse to employ or to differentiate adversely in relation to an employee on a prohibited ground of discrimination; and to use application forms, publish advertisements, or make oral or written inquiries that imply preference based on prohibited grounds. Employee organizations may not exclude an individual from membership, or expel or suspend a member of the organization on a prohibited ground. Neither may they act in any way that would deprive or limit opportunities to members. Employer or employee organizations may not use policies or practices affecting recruitment, referral, hiring, promotion, training, apprenticeship, transfer or any matter relating to employment or prospective employment that deprive individuals of employment opportunities on a prohibited ground of discrimination.

It should be noted that in eight jurisdictions (the Yukon and Northwest Territories, Alberta, Saskatchewan, Ontario, Nova Scotia, Prince Edward Island and Newfoundland) domestic workers employed in single family homes are excluded from the protection afforded under human rights codes against discrimination in employment.

In most jurisdictions, the prohibition against discrimination on the basis of sex has been interpreted to include sexual harassment. This topic was discussed under Article 5(a).

In Saskatchewan, sex is interpreted to mean gender and discrimination on the basis of pregnancy or pregnancy-related illnesses is deemed to be discrimination on the basis of sex.

## STATISTICAL DIGEST: ARTICLE 11.1(c)

### FREE CHOICE OF PROFESSION AND EMPLOYMENT

*Many occupational areas are still dominated by men and, judging by the training being received by women graduates of colleges and universities, this situation is not likely to change substantially. The training chosen by young women continues to be associated mainly with traditional stereotypes. These choices confine women to employment sectors where working conditions are often unfavourable.*

*Between 1976 and 1980, the number of women who earned a college diploma increased slightly while their proportion among recipients decreased from 60.2% in 1976 to 58.9% in 1980. These graduates were concentrated mainly in business (32.5%) and nursing science (24.5%). On the other hand, few women obtained a diploma in the non-traditional areas of study such as technology, natural resources, transportation and engineering, while these areas accounted for more than 50% of the male graduates (Table 19).*

*At the university level, the number and the proportion of bachelors and first professional degrees conferred on women increased significantly over the last decade. In 1980 women represented 49.6% of bachelor's graduates compared to 38.1% in 1970-71. However, a majority of women received degrees in areas of study leading to jobs which are increasingly scarce, such as education (27.2%), humanities (13.3%) and social sciences (27%). Very few women (4.2%) hold degrees in engineering, applied sciences, mathematics or physics. The percentage of male graduates in these areas is 22.7% (Table 20).*

*Some advances have been made, however, over this ten year period. The percentage of degrees in medicine received by women has increased from 12.8% in 1970-71 to 32.5% in 1980. The percentage of degrees received by women in the fields of law, economics and business management has shown similar increases over this time period (Table 20).*

### VOCATIONAL TRAINING AND RETRAINING

*In the area of vocational training, women display a much lower participation rate than men and receive training primarily oriented towards traditionally feminine occupations. In order to illustrate this situation, we have chosen to examine statistics on trainees who participated in 1981-82 in Canada Manpower Training Programs.*

*In 1981-82, women represented 28.5% of full-time trainees registered in two of the three main training programs for which data is available by sex, the institutional and industrial training programs. (Data provided by the Department of Employment and Immigration).*

*Of the courses offered within the context of institutional training, vocational training courses and apprenticeship courses are the most directly job-related. In the first instance, women represent 38.7% of trainees, while in the second instance, they comprise only 3.4% of trainees (Table 21).*

*Moreover, 71% of women trainees registered in vocational training courses received training for traditional occupations such as clerical (47.2%), services (13.9%) and those related to medicine and health (9.5%). Almost three quarters of the total number of women apprentices received training in the field of services alone (Table 21).*

*Women are also under-represented in the Industrial Training Program where they comprise only 27.1% of trainees. In addition, very few women trainees (5.2%) received training in non-traditional occupations such as hunting and fishing; forestry; mining and quarrying; machining; construction trades; operation of transport equipment; and material-handling (Table 21).*

## *PROMOTION*

*In the labour market, women who hold managerial positions are rather rare. In 1975, the federal government, aware that women and men did not enjoy the same employment opportunities, announced an equal employment policy for women. For this reason, we have chosen to examine the participation rate of women in the federal civil service, according to five organizational levels which, together, include all occupational groups and their constituent levels.*

*Although the situation has improved somewhat since 1976, women continued to be poorly represented in 1980 at the middle management level (11.8%), at the senior management level (7.3%), and at the executive level (4%) (Table 22).*

## *JOB SECURITY AND ALL BENEFITS AND CONDITIONS OF SERVICE*

*Unionization appears to be the best way for workers to improve their working conditions. In Canada, however, the great majority of workers do not enjoy this protection. Women workers are even more disadvantaged than men since, in 1980, only 23.9% of them were unionized, compared to 38% of men. The unionization rate of female paid workers increased slightly between 1970 and 1980, from 21.5% to 23.9%, while for male paid workers, it decreased slightly (Table 23).*

*The low rate of unionization for women compared with men may be explained in large part by the massive entry of women into new industries which do not have a long history of unionization, such as the service industry. Transportation, construction, manufacturing and primary industries other than agriculture are highly unionized industries but, in 1980, only 20.3% of women workers were employed in these areas compared to 49.9% of male workers (Table 24).*

*At the provincial level, the unionization rate for women differs from that of men. In 1980, the unionization rate for female paid workers was highest in Quebec (30.9%), followed by British Columbia (27.7%) and Saskatchewan (27.1%). Among male paid workers, the highest rate is found in Newfoundland (53.5%), followed by British Columbia (47.8%) and New Brunswick (39.3%) (Table 25).*

## able 19. Community College Diplomas(1) Recipients by Field of Study, 1976 and 1980

| FIELD of STUDY | RECIPIENTS 1976 Female | RECIPIENTS 1976 Male | RECIPIENTS 1980 Female | RECIPIENTS 1980 Male | Percent of diplomas received by female 1976 | Percent of diplomas received by female 1980 |
|---|---|---|---|---|---|---|
| | Per cent | | | | Per cent | |
| Arts | 7.7 | 8.8 | 10.8 | 9.1 | 56.9 | 62.8 |
| Business | 22.5 | 25.0 | 32.5 | 23.9 | 59.7 | 66.1 |
| Community & Social Services | 17.4 | 9.3 | 17.4 | 8.1 | 73.9 | 75.5 |
| Education | .6 | .2 | .4 | .2 | 81.2 | 73.5 |
| Engineering | .8 | 21.3 | 1.7 | 24.3 | 5.2 | 9.2 |
| Nursing | 36.1 | 1.8 | 24.5 | 1.4 | 96.8 | 96.2 |
| Other Medical Sciences | 10.9 | 4.1 | 8.1 | 3.7 | 92.4 | 90.1 |
| Natural Resources | 1.7 | 10.7 | 2.9 | 10.8 | 18.9 | 27.9 |
| Technologies | 1.0 | 15.3 | 1.2 | 15.3 | 8.9 | 10.1 |
| Transportation | 0.0 | 1.6 | .1 | 1.3 | 2.0 | 5.4 |
| Miscellaneous | .5 | 1.8 | .6 | 1.8 | 31.3 | 32.2 |
| TOTAL (2)Per cent | 100.0 | 100.0 | 100.0 | 100.0 | 60.2 | 58.9 |
| Number | 23082 | 15252 | 26975 | 18801 | | |

Notes: (1) Diplomas granted in career programs.
(2) Total includes not reported.

Source: Enrolment in Community Colleges, Catalogue 81-222 Annual 1980, and Data Provided by Education, Science and Culture Division.

Table 20. Bachelors and First Professional Degree Recipients by Field of
and Selected Disciplines, 1970-71 and 1980.

| FIELD of STUDY and SELECTED DISCIPLINES | RECIPIENTS 1970-71 Female | RECIPIENTS 1970-71 Male | RECIPIENTS 1980 Female | RECIPIENTS 1980 Male | Percent of degrees received by female 1970-71 | Percent of degrees received by female 1980 |
|---|---|---|---|---|---|---|
| | Per cent | | | | Per cent | |
| Education | 31.8 | 17.5 | 27.2 | 12.1 | 52.8 | 68.3 |
| Fine & Applied Arts | 2.5 | 1.3 | 4.0 | 2.2 | 54.8 | 64.7 |
| Humanities | 16.2 | 11.2 | 13.3 | 8.7 | 47.0 | 60.1 |
| Social Sciences | 17.0 | 29.1 | 27.0 | 35.5 | 26.5 | 42.8 |
| Commerce, Management, Business | .8 | 7.8 | 5.7 | 14.4 | 6.2 | 27.9 |
| Economics | .5 | 3.9 | 1.4 | 4.2 | 7.5 | 24.6 |
| Law & Jurisprudence | .7 | 4.3 | 2.5 | 4.5 | 9.3 | 35.0 |
| Psychology | 6.4 | 3.4 | 6.6 | 2.9 | 50.9 | 69.0 |
| Sociology | 4.2 | 2.2 | 3.2 | .7 | 53.6 | 67.3 |
| Social Work & Social Welfare | .7 | .3 | 1.9 | .7 | 54.9 | 74.5 |
| Agriculture & Biological Sciences | 4.8 | 4.5 | 6.4 | 6.2 | 39.2 | 50.5 |
| Engineering & Applied Sciences | .2 | 10.5 | 1.3 | 15.5 | 1.2 | 7.6 |
| Medical & Health Professions | 7.2 | 4.7 | 8.0 | 5.4 | 46.6 | 59.3 |
| Dentistry | .1 | .9 | .2 | .9 | 4.3 | 16.2 |
| Medicine | .6 | 2.4 | 1.3 | 2.7 | 12.8 | 32.5 |
| Nursing | 4.8 | .1 | 3.3 | .2 | 97.1 | 95.1 |
| Pharmacy | .7 | .7 | .9 | .6 | 38.3 | 60.5 |
| Mathematics & Physical Sciences | 2.9 | 7.5 | 2.9 | 7.2 | 19.4 | 28.4 |
| No Specialization | 17.4 | 13.6 | 9.9 | 7.3 | 44.1 | 57.0 |
| TOTAL Per cent | 100.0 | 100.0 | 100.0 | 100.0 | 38.1 | 49.6 |
| Number | 25557 | 41501 | 42805 | 43576 | | |

Source: Data Provided by Education, Science and Culture Division, Statistics Canada.

# Table 21. Skill(1), Apprentice and Industrial Female Trainees, Started Full-Time under Canada Manpower Training Programs by Occupation Trained For, 1981-1982.

| OCCUPATION (2) | FEMALE TRAINEES | | | Female Trainees as a percentage of the total Trainees | | |
|---|---|---|---|---|---|---|
| | Skill | Apprentice | Industrial | Skill | Apprentice | Industrial |
| | Per cent | | | Per cent | | |
| Managerial, Administrative & Related | 2.9 | —(3) | 2.9 | 59.6 | — | 35.2 |
| Natural Science, Engineering & Mathematics | 3.7 | — | 3.2 | 25.6 | — | 20.9 |
| Social Sciences & Related | 1.2 | — | 2.0 | 79.2 | — | 59.2 |
| Religion | — | — | — | — | — | — |
| Teaching and Related | .6 | — | .7 | 44.1 | — | 29.0 |
| Medecine & Health | 9.5 | 1.2 | 10.8 | 85.4 | 36.4 | 85.5 |
| Art., Literary, Performing Arts & Related | 1.4 | — | 3.0 | 57.7 | — | 60.0 |
| Sport & Recreation | -(4) | — | .2 | 7.8 | — | 21.2 |
| Clerical & Related | 47.2 | — | 21.5 | 92.8 | — | 71.9 |
| Sales | 1.3 | 5.3 | 5.6 | 47.6 | 15.2 | 39.4 |
| Service | 13.9 | 73.6 | 10.4 | 58.1 | 62.3 | 52.0 |
| Farming, Horticulture & Animal Husbandry | .9 | 1.1 | 1.5 | 17.5 | 21.3 | 20.1 |
| Fishing, Hunting, Trapping & Related | .6 | — | - | 11.1 | — | 9.8 |
| Forestry & Logging | .1 | — | .4 | 3.6 | — | 5.0 |
| Mining, Quarrying, Oil & Gas Related | - | — | .1 | 1.0 | — | 2.1 |
| Processing | 2.7 | 2.9 | 8.3 | 29.8 | 21.7 | 18.9 |
| Machining & Related | 1.7 | 2.4 | 2.9 | 5.5 | .6 | 8.8 |
| Product Fabricating, Assembling & Repair | 8.9 | 4.6 | 16.2 | 22.1 | .4 | 19.0 |
| Construction Trades | 1.5 | 8.5 | 1.1 | 6.5 | .7 | 3.7 |
| Transport Equipment Operator | 1.0 | — | .4 | 5.7 | — | 6.8 |
| Material-Handling & Related, N.E.C. | - | .2 | .3 | .8 | 20.0 | 9.8 |
| Other Crafts & Equipment Operations | .7 | .2 | 3.3 | 12.0 | 1.4 | 30.9 |
| Occupations Not Elsewere Classified. N.E.C. | - | — | 4.6 | 100.0 | 4.3 | 19.5 |
| TOTAL TRAINEES | | | | | | |
| Per cent | 100.0 | 100.0 | 100.0 | 38.7 | 3.4 | 27.1 |
| Number | 23048 | 2032 | 18339 | | | |

Notes: (1) Skill means pre-employment courses, providing trainee with upgrading, updating or entry-level skills training in a particular occupation.
(2) Canadian classification and dictionary of occupations.
(3) Means none.
(4) Means less than 10 persons.

Source: Data Provided by The Department of Employment and Immigration Canada.

Table 22. Employees in the Canadian Federal Public Service by Organizatic Levels, 1976 and 1980.(1)

| ORGANIZATIONAL LEVEL | EMPLOYEES | | Female as a percentage of the total employees | |
|---|---|---|---|---|
| | 1976 | 1980 | 1976 | 1980 |
| | Number | | Per cent | |
| I. Support Staff | 169169 | 155517 | 43.7 | 44.9 |
| II. Junior Officers | 68065 | 71230 | 23.2 | 29.8 |
| III. Middle Managers | 29961 | 31442 | 9.4 | 11.8 |
| IV. Senior Managers | 8387 | 8579 | 5.4 | 7.3 |
| V. Senior Executives | 1268 | 1309 | 2.4 | 4.0 |
| GRAND TOTAL | 277311 | 268139 | 33.6 | 35.6 |

Note: (1) All employees covered by the Public Service Employment Act.

Source: Women in the Canadian Public Service, Public Service Commission of Canada, 1980.

Table 23. Unionization of Employed Paid Workers, 1970 to 1980.

| SEX and YEAR | Union Members | Unionization rate (1) |
|---|---|---|
| **FEMALE** | Thousands | Per cent |
| 1970 | 513 | 21.5 |
| 1971 | 558 | 21.7 |
| 1972 | 576 | 21.4 |
| 1973 | 636 | 22.2 |
| 1974 | 677 | 22.4 |
| 1975 (2) | 711 | 22.9 |
| 1976 | 751 | 23.1 |
| 1977 | 782 | 23.2 |
| 1978 | 835 | 23.3 |
| 1979 | 890 | 23.7 |
| 1980 | 933 | 23.9 |
| **MALE** | Thousands | Per cent |
| 1970 | 1754 | 39.6 |
| 1971 | 1817 | 40.0 |
| 1972 | 1802 | 38.4 |
| 1973 | 1944 | 39.2 |
| 1974 | 2006 | 39.4 |
| 1975 (2) | 2025 | 39.5 |
| 1976 | 2028 | 38.2 |
| 1977 | 2040 | 38.0 |
| 1978 | 2072 | 37.5 |
| 1979 | 2145 | 38.5 |
| 1980 | 2160 | 38.0 |

Notes: (1) Means the percentage of employed paid workers who belong to union organization.

(2) The revision of the labour force survey in 1975 makes strict comparability before and after 1975 impossible.

Sources: Corporation and Labour Union Returns Act, Report for 1970 to 1980, Part II Labour Unions, Catalogue 71-202 Annual.
The Labour Force, Annual Averages, Catalogue 71-001 Monthly, 1970 to 1980.

## Table 24. Employed Paid Workers and Unionization Rate by Industry, 1980.

| INDUSTRY | EMPLOYED PAID WORKERS FEMALE | EMPLOYED PAID WORKERS MALE | Unionization rate (1) |
|---|---|---|---|
| | Per cent | | Per cent |
| Goods Producing Industries | | | |
| Agriculture | .9 | 1.6 | .4 |
| Other Primary Industries | .8 | 4.2 | 34.8 |
| Manufacturing | 13.6 | 26.7 | 43.2 |
| Construction | 1.2 | 7.6 | 57.6 |
| Service Producing Industries | | | |
| Transportation, Communication and other Utilities | 4.7 | 11.4 | 53.2 |
| Trade | 19.1 | 16.5 | 5.9 |
| Finance, Insurance and Real Estate | 9.2 | 3.9 | 2.5 |
| Community, Business and Personal Service | 44.2 | 19.5 | 24.3 |
| Public Administration | 6.5 | 8.6 | 67.8 |
| ALL INDUSTRIES | | | |
| Per cent | 100.0 | 100.0 | [illegible] |
| Thousands | 3907 | 5691 | |

Note: (1) Means the percentage of employed paid workers who belong to union organization.

Sources: Corporations and Labour Unions Return Act, Report for 1980 Part II. Catalogue 71-202 Annual.
The Labour Force, Catalogue 71-001 Monthly, December 1980.

## Table 25. Unionization of Employed Paid Workers by Province, 1980.

| Sex and Province | Union members | Unionization rate(1) |
|---|---|---|
| **FEMALE** | Number | Per cent |
| Newfoundland | 14971 | 24.6 |
| Prince Edward Island | 3320 | ...(2) |
| Nova Scotia | 21888 | 19.0 |
| New Brunswick | 16795 | 18.9 |
| Quebec | 294264 | 30.9 |
| Ontario | 314117 | 20.3 |
| Manitoba | 42883 | 25.4 |
| Saskatchewan | 36310 | 27.1 |
| Alberta | 65011 | 16.8 |
| British Columbia | 121107 | 27.7 |
| CANADA | 932883 | 23.9 |
| **MALE** | Number | Per cent |
| Newfoundland | 52757 | 53.5 |
| Prince Edward Island | 5441 | 25.0 |
| Nova Scotia | 62772 | 36.0 |
| New Brunswick | 55188 | 39.3 |
| Quebec | 574402 | 39.2 |
| Ontario | 795714 | 37.0 |
| Manitoba | 79614 | 35.7 |
| Saskatchewan | 58928 | 30.7 |
| Alberta | 146744 | 26.6 |
| British Columbia | 323380 | 47.8 |
| CANADA | 2159969 | 38.0 |

Notes: (1) Means the percentage of employed paid workers who belong to union organization.
(2) Means estimates less than 4000 persons.

Sources: Corporation and Labour Unions Return Act, Report for 1980, Catalogue 71-202 Annual.
The Labour Force, 1980 Annual Averages. Catalogue 71-001 December 1980.

## ARTICLE 11.1(d)

> States Parties shall ... ensure, on a basis of equality of men and women, the same rights, in particular:
>
> (d) The right to equal remuneration, including benefits, and to equal treatment in respect of work of equal value, as well as equality of treatment in the evaluation of the quality of work;

The statutory authority governing the right to equal remuneration is to be found either in human rights codes or labour standards legislation. New Brunswick is the only province without a specific equal pay provision, the principle being held to be included in the general antidiscrimination provisions of the Human Rights Code.

Eight provinces and the two territories have legislation requiring that equal pay be given to women and men who perform work which is the same, similar or substantially the same or similar. Section 6 of the Alberta Individual's Rights Protection Act is an example:

> 6(1) No employer shall
>
> (a) employ a female employee for any work at a rate of pay that is less than the rate of pay at which a male employee is employed by that employer for similar or substantially similar work in the same establishment, or
>
> (b) employ a male employee for any work at a rate of pay that is less than the rate of pay at which a female employee is employed by that employer for similar or substantially similar work in the same establishment.
>
> (2) In subsection (1), "establishment" means a place of business where an undertaking or part of an undertaking is carried on.
>
> (3) Work for which a female employee is employed and work which a male employee is employed shall be deemed to be similar or substantially similar if the job, duties or services the employees are called on to perform are similar substantially similar.
>
> (4) A difference in the rate of pay between a female and male employee based on any factor other than sex does not constitute a failure to comply with this section if the factor on which the difference is based would normally justify such a difference.

> (5) No employer shall reduce the rate of pay of an employee in order to comply with this section.
>
> (6) When an employee is paid less than the rate of pay to which the employee is entitled under this section, the employee is entitled to recover from the employer by action the difference between the amount paid and the amount to which the employee was entitled, together with costs, but
>
> > (a) the action must be commenced within 12 months from the date on which the cause of action arose and not afterward,
> >
> > (b) the action applies only to the wages of an employee during the 12-month period immediately preceding the termination of the employee's services or the commencement of the action, whichever occurs first,
> >
> > (c) the action may not be commenced or proceeded with when the employee has made a complaint to the Commission in respect of the contravention of this section, and
> >
> > (d) no complaint by the employee in respect of the contravention shall be acted on by the Commission when an action has been commenced by the employee under this section.

The Quebec Charter of Human Rights and Freedoms contains the following provision:

> 19 Every employer must, without discrimination, grant equal salary or wages to the members of his personnel who perform equivalent work at the same place.
>
> A difference in salary or wages based on experience, seniority, years of service, merit, productivity or overtime is not considered discriminatory if such criteria are common to all members of the personnel.

The wording of s.19 allows a comparison of dissimilar jobs as does s.11 of the federal human rights legislation.

The Canadian Human Rights Act, which applies only to the federal bureaucracy and businesses under federal jurisdiction, uses similar wording:

> 11.(1) It is discriminatory practice for an employee to establish or maintain differences in

> wages between male and female employees employed in the same establishment who are performing work of equal value.
>
> (2) In assessing the value of work performed by employees employed in the same establishment, the criterion applied is the composite of the skill, effort and responsibility required in the performance of the work and the conditions under which the work is performed.
>
> (2.1) Separate establishments established or maintained by an employer solely or principally for the purpose of establishing or maintaining differences in wages between male and female employees shall be deemed for the purposes of this section to be a single establishment.
>
> (3) Notwithstanding subsection (1), it is not a discriminatory practice to pay to male and female employees different wages if the difference is based on a factor prescribed by guidelines issued by the Canadian Human Rights Commission pursuant to subsection 22(2) to be a reasonable factor that justifies the difference.
>
> (4) For greater certainty, sex does not constitute a reasonable factor justifying a difference in wages.
>
> (5) An employer shall not reduce wages in order to eliminate a discriminatory practice described in this section.
>
> (6) For the purposes of this section, "wages" means any remuneration payable for work performed by an individual and includes salaries, commissions, vacation pay, dismissal wages, bonuses, reasonable value for board, rent, housing, lodging, payments in kind, employer contributions to pension funds or plans, and any long-term disability plans and all forms of health insurance plans and any other advantage received directly or indirectly from the individual's employer.

On December 1980, federal government librarians won equalization adjustments and back pay following settlement of an equal pay for work of equal value complaint in which the librarian group was compared to historical researchers. This was the first settlement at the federal level, of a complaint comparing occupational groups whose members perform dissimilar work.

Remuneration in the form of wages or pay is usually further defined compensation is understood to include fringe benefits such as pension and insurance rights.

With regard to equal benefits, regulations made by the Canadian Human Rights Commission define the circumstances under which provisions of pension and insurance schemes may or may not make distinctions on the basis of (amongst other things) sex.

Minimum wages within each labour jurisdiction are set under minimum wage legislation, provisions for which are also found in employment/labour standards codes. Many jurisdictions exclude domestic and agricultural workers from the general protection afforded by employment/labour standards codes as well as from minimum wage protection. Manitoba has amended its Employment Standards Act to provide coverage for domestic workers who work more than 24 hours a week. Ontario and Quebec have made regulations pursuant to employment/labour standards legislation providing for minimum wage standards, overtime and rates for room and board deductions for domestic workers (working more than 24 hours a week only in the case of Ontario).

International obligations towards the principle of equal pay for work of equal value were assumed upon ratification of the ILO Equal Remuneration Convention 100 in 1972 and the International Covenant on Economic Social and Cultural Rights in 1976. The deposit of the Canadian ratification of the Convention on the Elimination of All Forms of Discrimination Against Women was accompanied by the following statement:

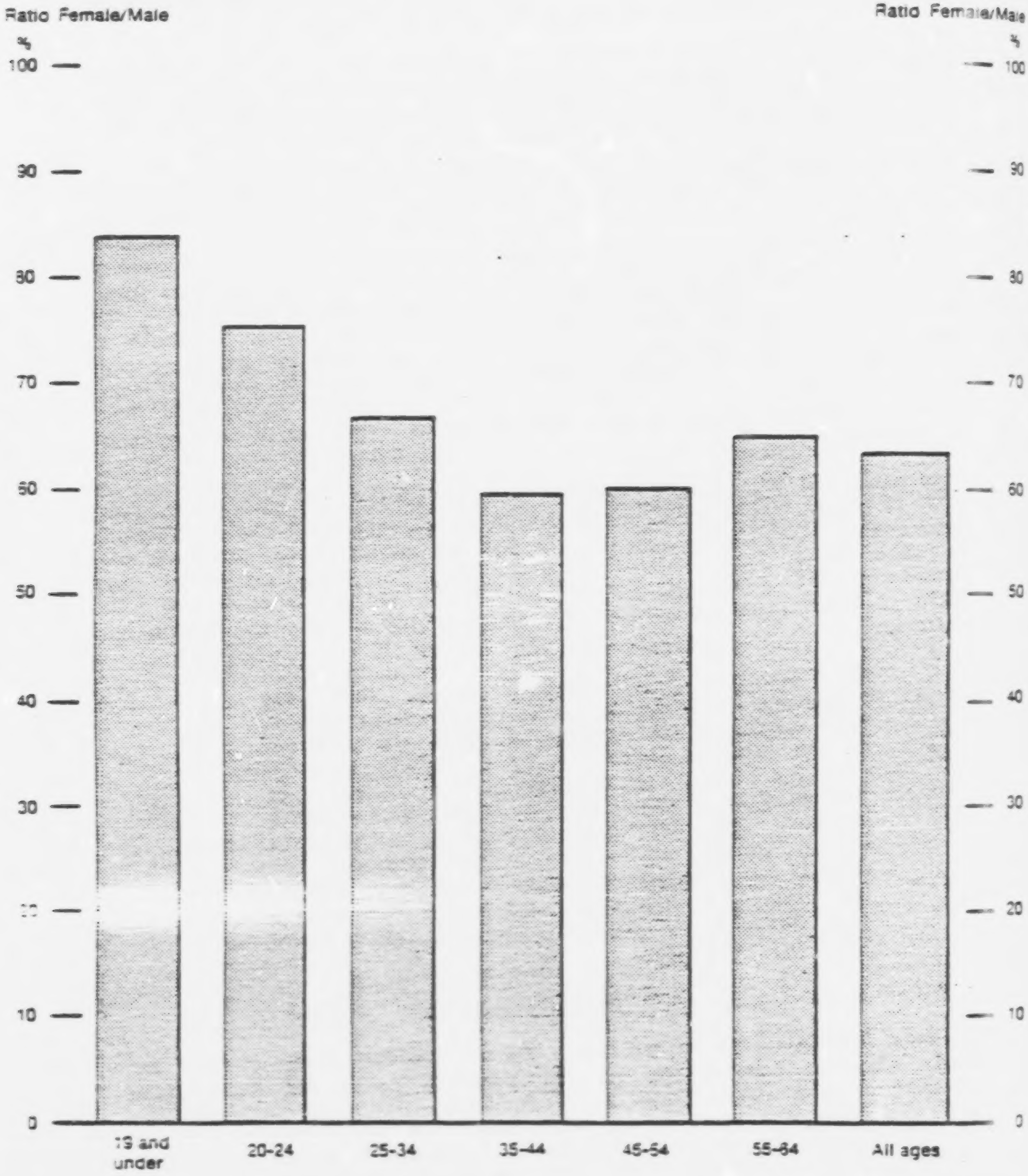
> The Government of Canada states that the competent legislative authorities within Canada have addressed the concept of equal pay referred to in article 11(1)(d) by legislation which requires the establishment of rates of remuneration without discrimination on the basis of sex. The competent legislative authorities within Canada will continue to implement the object and purpose of article 11(1)(d) and to that end have developed, and where appropriate will continue to develop additional legislative and other measures.

### *STATISTICAL DIGEST: ARTICLE 11.1(d)*

*The data presented below are taken from a special study of male and female earnings carried out by the Consumer Income and Expenditure Division of Statistics Canada. This study carefully distinguished full- and part-time workers and their earnings. More recent data on income and earnings are available but not with this degree of detail. Accordingly 1979 data were used. Further detail for more recent years will become available in 1983.*

*In 1979, women working full-time were paid 63.3% of the amount earned by full-time male workers, an increase of 3.6 percentage points over*

**Ratio of Annual Average Earnings of Female and Male Full-time workers[1] by Age Group, 1979**



(1) A full-time worker is a person who worked, mostly full-time, 50 to 52 weeks in the reference year.

1971. From 1971 to 1979, on average for every dollar that women's earnings rose, men's earning rose an average of a dollar and a half. This represents nonetheless an improvement over time since women's earnings have risen 124% since 1971 compared to 111% for men (Table 26.)

This difference does not hold steady for different age groups. It is amplified for women between 35 and 44 working full-time, who earn about 59.6% of male earnings; and is somewhat diminished for younger women who work full-time. For example, women under 20 earn 83.7% as much as men; women between 20 and 24, 75.4% as much as men; and the trend continues downward from there. In general, the older the age group, the greater the difference between men's and women's earnings (Table 27).

Assuming that education plays a role in determing differences between male and female earnings, one might expect that groups having the same levels of education would have salary differences that were significantly smaller than the overall picture, i.e., that men and women with equal educational levels would have a ratio of female to male earnings which is well above the average of 63.3% (Table 28).

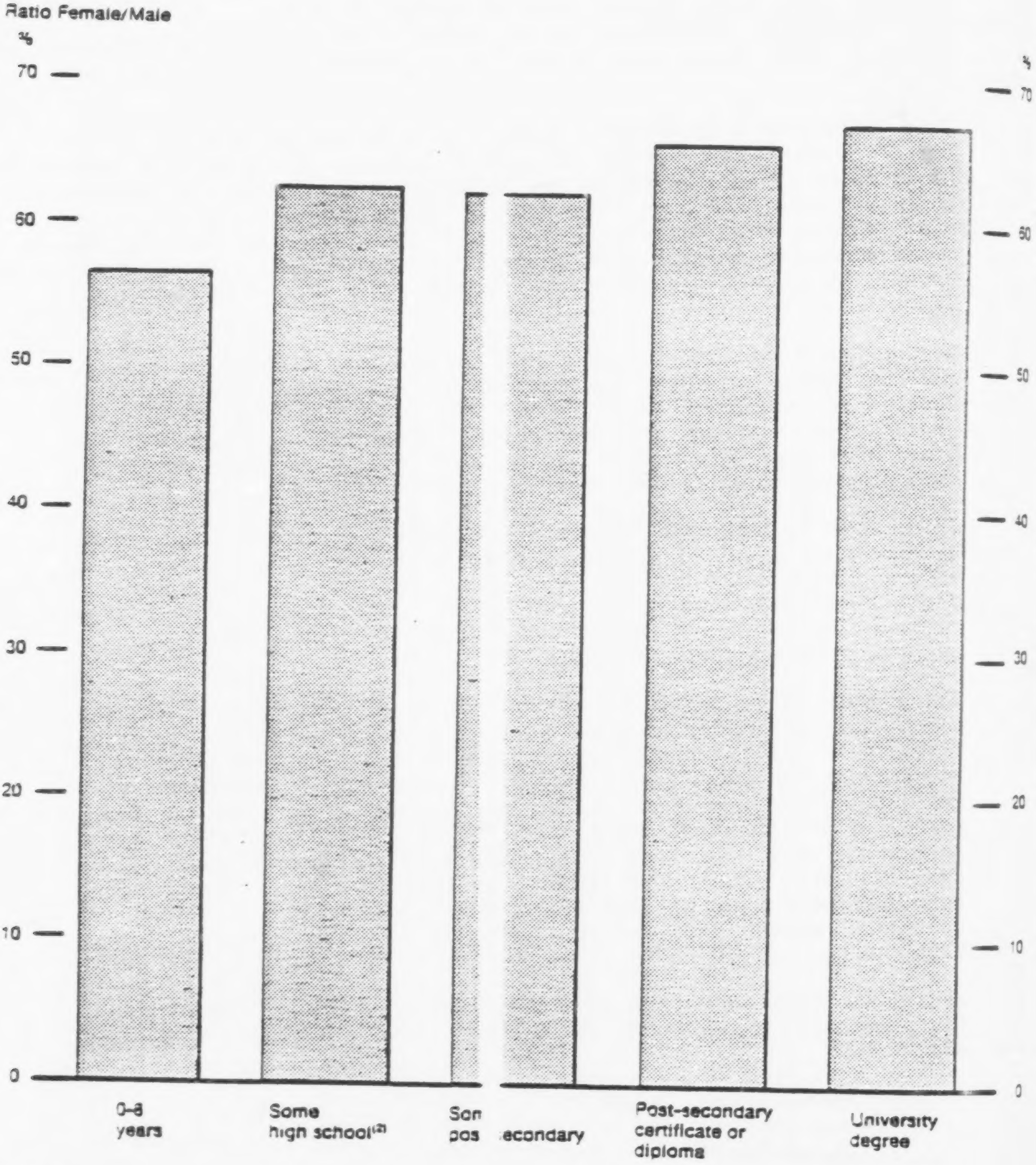
If we look at full-time workers, even where the ratio is higher than average i.e. those with post-secondary or university graduation, the effects of education are far from great. Education is not apparently a great earnings equalizer. The highest comparative earnings were commanded by women with university degrees, who earned 67.2% as much as their male counterparts (Table 28).

The picture is no better if we look at broad occupational classes. Women are commanding between 50.6% and 65.9% of men's earnings throughout. The occupational group with the greatest parity of earning is that labelled "clerical", a traditionally female-dominated and low-paid occupation. Yet the occupational group with the least parity is the "service" group, also traditionally dominated by female workers and even lower paid. The clarity of our understanding is far from adequate, for to some extent, we know that the different sexes have different types of jobs within broad occupational groupings and we would expect this to be reflected in the earnings levels (Table 29).

As a final note, we observe that the provinces tend to cluster around the national average of 63.3% with the following exceptions (Table 30):

| | |
|---|---|
| Prince Edward Island | 73.8% |
| Nova Scotia | 70.1% |
| Saskatchewan | 68.5% |
| Alberta | 59.4% |

## Ratio of Annual Average Earnings of Female and ale Full-time workers[1] by Level of Education, 1979



(1) A full-time worker is a person who worked, mostly fu ime, 50 to 52 weeks in the reference year.

(2) Includes persons who have either completed their se ndary education or had at least some secondary education, but not ha any post-secondary education.

Table 26. Annual Average Earnings of Full-Time Workers, 1971, 1973, 1975, 1977 and 1979.

| YEAR | FULL-TIME WORKERS (1) | | Ratio Female/Male |
|---|---|---|---|
| | FEMALE | MALE | |
| | Current dollars | | Per cent |
| 1971 | 5232 | 8770 | 59.7 |
| 1973 | 6184 | 10434 | 59.3 |
| 1975 | 8231 | 13674 | 60.2 |
| 1977 | 9790 | 15777 | 62.1 |
| 1979 | 11743 | 18537 | 63.3 |

Note: (1) A full-time worker is a person who worked, mostly full-time, 50 to 52 weeks in the reference year.

Source: Earnings of Men and Women, Selected Years 1967 to 1979, Catalogue 13-577 Occasional.

## Table 27. Annual Average Earnings of Full-Time Workers by Age Group, 1979.

| AGE GROUP | FULL-TIME WORKERS(1) | | Ratio |
|---|---|---|---|
| | FEMALE | MALE | Female/Male |
| | Current dollars | | Per cent |
| 19 and under | 8138 | 9724 | 83.7 |
| 20-24 | 10116 | 13408 | 75.4 |
| 25-34 | 12336 | 18433 | 66.9 |
| 35-44 | 12454 | 20862 | 59.6 |
| 45-54 | 12231 | 20313 | 60.2 |
| 55-64 | 12265 | 18827 | 65.1 |
| 65 + | :::(2) | 10929 | ::: |
| All Ages | 11743 | 18537 | 63.3 |

Notes: (1) A full-time worker is a person who worked, mostly full-time, 50 to 52 weeks in the reference year.

(2) Sample too small to show reliable estimates.

Source: Earnings of Men and Women, Selected Years 1967 to 1979, Catalogue 13-577 Occasional.

## Table 28. Annual Average Earnings of Full-Time Workers by Level of Education, 1979.

| LEVEL of EDUCATION | FULL-TIME WORKERS(1) FEMALE | FULL-TIME WORKERS(1) MALE | Ratio Female/Male |
|---|---|---|---|
| | Current dollars | | Per cent |
| 0-8 Years | 8904 | 15704 | 56.7 |
| Some high school (2) | 10797 | 17214 | 62.7 |
| Some post-secondary | 11851 | 19016 | 62.3 |
| Post-secondary certificate or diploma | 12943 | 19602 | 66.0 |
| University degree | 17842 | 26553 | 67.2 |
| All levels | 11743 | 18557 | 63.3 |

Notes: (1) A full-time worker is a person who worked, mostly full-time, 50 to 52 weeks in the reference year.

(2) Includes persons who have either completed their secondary education or had at least some secondary education, but not had any post-secondary education.

Source: Earnings of Men and Women, Selected Years 1967 to 1979, Catalogue 13-577 Occasional.

Table 29. Annual Average Earnings of Full-Year Workers by Occupation, 1979.

| OCCUPATION | FULL-YEAR WORKERS (1) | | Ratio |
|---|---|---|---|
| | FEMALE | MALE | Female/Male |
| | Current dollars | | Per cent |
| Managerial | 14583 | 24729 | 59.0 |
| Professional | 14053 | 22724 | 61.8 |
| Clerical | 10245 | 15545 | 65.9 |
| Sales | 8603 | 18075 | 47.6 |
| Service | 7321 | 14474 | 50.6 |
| Agriculture, etc. | 6591 | 12765 | 51.6 |
| Processing & Machining | 10074 | 17368 | 58.0 |
| Product Fabricating, Assembling and Repairing | 9491 | 16765 | 56.6 |
| Transport Equipment Operation | 9676 | 17044 | 56.8 |

Note: (1) Means a person who worked full-time or part-time for 50 to 52 weeks during the reference year.

Source: Earnings of Men and Women, Selected Years 1967 to 1979, Catalogue 13-577 Occasional.

# Table 30. Annual Average Earnings of Full-Time Workers by Province, 1979.

| Province | FULL-TIME WORKERS(1) |  | Ratio Female/Male |
|---|---|---|---|
|  | FEMALE | MALE |  |
|  | Current dollars |  | Per cent |
| Newfoundland | 10000 | 16393 | 61.0 |
| Prince Edward Island | 9901 | 13418 | 73.8 |
| Nova Scotia | 11010 | 15709 | 70.1 |
| New Brunswick | 10137 | 16500 | 61.4 |
| Quebec | 11549 | 17909 | 64.5 |
| Ontario | 11952 | 18813 | 63.5 |
| Manitoba | 10804 | 17304 | 62.4 |
| Saskatchewan | 11550 | 16858 | 68.5 |
| Alberta | 11699 | 19692 | 59.4 |
| British Columbia | 12855 | 20908 | 61.5 |
| CANADA | 11743 | 18537 | 63.3 |

Note: (1) A full-time worker is a person who worked, mostly full-time, 50 to 52 weeks in the reference year.

Source: Earnings of Men and Women, Selected Years 1967 to 1979, Catalogue 13-577 Occasional.

ARTICLE 11.1(e)

> States Parties shall ... ensure, on a basis of equality of men and women, the same rights, in particular:
>
> (e) The right to social security, particularly in cases of retirement, unemployment, and other incapacity to work, as well as the right to paid leave;

Canada has a complex network of social security programs. In some cases, payments are universal, in others they are directed towards specific population groups.

In general, rights guaranteed under the social security system are applied equally to women and men. Instances of unequal treatment usually result from systemic discrimination eg. the exclusion of domestic workers (most of whom are likely to be women) from coverage under worker's compensation statutes and from employment discrimination provisions in human rights and labour standards legislation.

In the area of pension rights women also are affected by systemic discrimination in that the occupations generally characterized as female-dominated tend to be less unionized. As a result, women are less likely to benefit from the gains in the area of pensions that have been made under many of the collective agreements negotiated by unions in male-dominated occupations.

Also the working lives of women are often interrupted for child bearing and rearing thereby reducing their average number of pensionable years. And women who engage in part-time work or enter and leave the labour force or change jobs more frequently than men to allow time for their family responsibilities may be penalized in terms of their pension and benefit rights.

While the prohibition of discrimination in employment practices applies to the various terms and conditions of employment including pension and insurance plans, the Canadian Human Rights Act also lists certain exceptions. The Governor-in-Council has passed Benefit Regulations defining those practices which are not to be considered discriminatory. Probably the most important provision stems from the matter of unequal benefits being provided to women because of the use of sexbased mortality tables. It is now the basis for a complaint if there is a differentiation between employees on grounds of sex in the amount of benefits payable under "money purchase" type of plans.

The question of unequal benefits being provided to women because of the use of sex-based mortality tables is also a concern of the Saskatchewan Human Rights Commission. The Commission has presented its interpretation of the Saskatchewan Human Rights Code in its publication "Human Rights and Benefits in the 80's; An Interpretation of the Saskatchewan Human Rights Code as it Applies to Pensions, Employee Benefits, and Insurance." This publication was issued for comment in November of 1981.

Under Canada's constitution, the primary responsibility for social security rests with the provincial governments by virtue of their authority over "property and civil rights" and "generally all matters of a merely local or private nature in the province." Since Confederation, however, there have been three amendments to the constitution which granted jurisdictional authority to the federal government for specific social security matters, the first of which was unemployment insurance in 1940. Later, the federal government's legislative authority was extended to old age pensions (1951) and "supplementary benefits, including survivors' and disability benefits" (1964), provided that the federal laws do not affect the operation of any provincial law. The Government of Canada has also made use of its "spending power" to support or assist other programs over which it does not have direct consitutional jurisdiction. Such programs are often administered co-operatively with provincial and territorial governments.

The social security system is an overall blend of five types of programs:

- national non-contributory programs that are solely financed and administered by the federal government;
- contributory programs operating on a national basis administered by the federal and Quebec governments;
- federal-provincial programs that are jointly financed by the federal and provincial governments, administered by the provinces and co-ordinated to allow portability of benefits and provide for uniform minimum national standards;
- federal-provincial programs financed jointly but administered by the province without such uniform standards;
- programs administered and financed by the provinces and/or the municipalities (some municipal program expenditures are cost-shared with the provincial governments which are reimbursed in part by the federal government).

The bulk of expenditure, however, is found in the areas of federal and federal-provincial programs.

With regard to the particular cases of "retirement, unemployment, sickness, invalidity and old age" three major systems can be distinguished relating to: pensions; unemployment insurance; and workers' compensation.

## 1 PENSIONS

The Canadian pension system consists of a universal non-contributory program as well as a national public, contributory pension plan and employer-sponsored pension plans.

### a Public Non-contributory Pensions

The Old Age Security (OAS) program provides a basic source of income on a universal, non-contributory basis to those aged 65 and over who meet certain residence requirements. The program also pays an income-tested Guaranteed Income Supplement (GIS) to augment the incomes of pensioners who have little or no income apart from their basic pension. A similar income-tested supplement known as the Spouse's Allowance is paid to the 60-64 year old spouse of a low-income pensioner.

In addition, low-income pensioners in British Columbia, Alberta, Saskatchewan, Manitoba, Ontario, Nova Scotia, the Yukon and the Northwest Territories may receive an additional supplement from those governments.

### b Public Contributory Pensions

The Canada Pension Plan (CPP) is a public, contributory, earnings-related social insurance program established in 1966. Members of the labour force make compulsory contributions to the CPP or the Quebec Pension Plan (QPP), a parallel plan administered in Quebec by the provincial government, at the rate of 1.8% earnings between $1,600 and $16,500 (1982); the employer makes an equal contribution. The pension plan is fully portable among employers and regions.

On retirement, at age 65, the CPP/QPP pay benefits equalling 25% of average lifetime, inflation-adjusted earnings up to the maximum pensionable amount. The Plans also provide for benefits for surviving spouses. For spouses 65 and over, the benefit is equal to 60% of the deceased contributor's retirement pension. For spouses under 65, the benefit comprises a flat-rate portion and an earnings related portion equal to 37.5% of the deceased contributor's pension entitlement.

In 1977, the federal Parliament approved an amendment to the CPP, the child-rearing drop-out provision, which would allow a working parent to exclude from CPP benefit calculations the period of low earnings caused by leaving the work force to raise a child under the age of seven. At the present time provincial consent, necessary for the amendment to come into force, has not yet been given.* The provision is now only available in the province of Quebec under the QPP.

An amendment to the CPP implemented in 1978 allowed pension credits earned by both husband and wife during the course of a marriage to be split between them equally on the request of either party in the event of a divorce or annulment. This provision is of particular benefit to women who have had limited or no opportunity to build up their own pension credits during the period of the marriage. In December 1982, the federal government released a green paper outlining a number of proposals for reform of the retirement income system.* These proposals include improvements to survivor benefits, an extension of the current credit-splitting provision and a commitment to pursue the implementation of the child-rearing drop-out provision.

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* Consent is required from two-thirds of the provinces with two-thirds of the population.

### c Employer-Sponsored Pensions

Employer-sponsored pension plans provide additional income for some Canadians. However, fewer than half of all employed paid workers are covered by such plans. Only about one-third of working women are covered.

The federal green paper referred to above also puts forward several proposals designed to rectify the unfavourable effects of the private pension plan system on women.

The primary responsibility for employer-sponsored pension plans rests with the ten provincial governments, six of which administer their own, independent pension benefit standards legislation. Legislative reform is now under consideration in several provinces. In 1981, Saskatchewan enacted legislation that provides for earlier vesting of pension rights, and for a minimum survivors pension of 50% that can only be waived with the written consent of both spouses. The splitting of pension credits on marriage breakdown is provided for in that where there are hearings under the Matrimonial Property Act, pensions are to be considered part of the matrimonial property.

## 2 UNEMPLOYMENT INSURANCE

The Unemployment Insurance (UI) program has existed since 1940. It is a social insurance program which provides protection against loss of income from employment due to lay-off or sickness.

Employee and employer pay contributions to UI if the employee meets the minimum insurability requirements of earning 20% of the maximum weekly insurable earnings of $385 in 1983 (i.e. at least $77) or working 15 hours per week. To qualify for benefits, employees must have between 10 to 20 weeks of insurable employment, depending on regional unemployment rates. Benefits are paid, after a two-week waiting period, for up to 50 weeks. Benefit rates are 60% of insured earnings up to a maximum of $231 per week in 1983.

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* Government of Canada, Better Pensions for Canadians: Focus on Women (Ottawa: Supply and Services Canada, 1982).

Sickness benefits may be received for a maximum of 15 weeks out of 25 weeks on initial benefit within a 52-week period. A claimant must have worked the required 20 weeks (in the last 52) and have a medical certificate signed by a doctor stating the nature and probable duration of the illness or injury. As with regular Unemployment Insurance benefit, there is a two week waiting period during which no benefit is paid.

## 3 WORKERS' COMPENSATION

Workers' Compensation programs, operated by the provincial governments, provide compensation to workers for injury on the job and to spouses and dependent children surviving an employee who dies as a result of an industrial injury or illness. Coverage is compulsory for employees in specified categories of industry and commerce. Domestic and agricultural workers are excluded in all provinces save Manitoba and Ontario.* Bank employees, with the exception of those working in Ontario and Quebec, are also not covered. Some other provinces provide for coverage of these workers on voluntary application by the employer eg. coverage of domestic workers is optional under the British Columbia Workers' Compensation Act. Contributions to these programs are made by employers with rates of contributions varying from industry to industry depending on "risk of industry". The degree and the duration of disability determine the benefits paid.

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* Coverage of agricultural workers will become compulsory in British Columbia as of 4 April, 1983.

## *STATISTICAL DIGEST: ARTICLE 11.1(e)*

## *CANADIAN PENSION PLAN (CCP) AND THE QUEBEC PENSION PLAN (QPP)*

*If we look at the pool of possible CPP/QPP contributors, i.e., those of usual labour force age, approximately 18 to 64, we find that 73.8% of this population was contributing in 1980, thus ensuring some level of pension income for that contributory group. The sex differences in labour force participation are reflected in the contributor distribution. While just over 57% of the women 18 to 64 are contributing to CPP/QPP, the figure is over 90% for men. If this situation were to remain static, a great many women presently 18 to 64 would be without this source of pension or with a reduced income from this source once they retire (Table 31).*

*Since the CPP/QPP retirement schemes were implemented in 1966 and the Canadian population is aging, the number of beneficiaries and the average payments made to beneficiaries will continue to grow. It is also noteworthy that at present, the proportion of male beneficiaries outnumbers that of females by almost three to one. Since females have had lower labour force participation rates and therefore lower contribution rates to CPP/QPP, and since they tend to live longer and thus to outnumber elderly males, there is a disproportionate number of elderly females without this source of pension income (Table 32).*

*Present benefit levels of these plans are approximately 112 dollars per month on average for females and 161 dollars a month for males, reflecting in part the historical income differences between contributing males and females and also that women are more likely to be the recipients of the reduced survivors pension. Since elderly Canadians receive approximately 250 dollars a month from the universal old age security program, the CPP/QPP benefits (for those receiving them) represent an increase (an additional 50%) over the basic old age security entitlement (Table 33). There are, of course, other sources of income assistance for elderly Canadians.*

*When a contributor to the CPP or QPP dies, a lump sum death benefit is calculated and paid to his or her estate. In 1981, for the population over 20 years of age, benefits were paid in 60% of the cases of male death but only 15.8% of the female deaths (Table 34).*

*If a deceased contributor has been contributing for a specified period of time, his or her spouse may receive a monthly surviving spouse's pension, usually 60% of the deceased spouse's pension. Those widowed before the age of 45 are entitled to the full amount of the surviving spouse's pension only if they are disabled or have dependent children. Otherwise, the pension is reduced. Widows and widowers younger than 35, who are not disabled or do not have dependent children, do not receive the surviving spouse's pension until they reach 65.*

*In 1981, 35% of widows over age 20 received this surviving spouse's pension, and about 10.7% of widowers (Table 35).**

*The average payment for the surviving spouse's pension differs between the CPP and QPP. In both cases average pensions are higher for widows than for widowers, most likely reflecting the contributory period and income differences between the sexes that favour men and that influence the level of benefits (Table 36).*

## EMPLOYER-SPONSORED PENSIONS

*Employer-sponsored pension plans provide additional income for some Canadians. However, few workers, and particularly few women workers are covered by such plans.*

*In 1980, 39.7% of the labour force was covered by some form of employer-sponsored pension plan. Coverage, however, was less for working women, 31.2% of whom were covered, compared with 45.1% of men (Table 37).*

*Since part-time workers are for the most part not covered by such plans, and as females represent the greatest proportion of the part-time work force, they are disadvantaged in that this type of pension income will not accrue to them upon retirement.*

## OLD AGE SECURITY PROGRAMS

*At age 65 virtually all Canadians can apply for and receive the Old Age Security pension (OAS). Both sexes receive the same level of benefit. Individuals having little or no other income can, after the administration of an income test, receive additional supplementary income - the Guaranteed Income Supplement (GIS). This supplemental payment may be granted in total or in part, depending on the level of need as determined in the income test. Thus the right to social security in old age is guaranteed to almost all Canadians.*

*In 1982 over one million, three-hundred thousand women received the OAS, and just over one million men, a reflection of the greater longevity of women. Fifty-four percent of female pensioners and 47% of male pensioners, of eligible age, received either full or partial income supplement. The proportion of elderly of both sexes receiving supplemental benefits is becoming smaller. This is in part due to increased eligibility for other private and public pension schemes on the part of both men and women with the result that their incomes are rising and fewer qualify for full or partial supplementary benefits under the OAS program (Table 38).*

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* *The figure of 20 years is used here rather than the traditional labour force beginning age of 15 since some minimum contribution time conditions are applied in the case of death and surviving spouses' benefits.*

*The elderly are increasing in number faster than the general population and it should be borne in mind that even though the proportion of both men and women receiving the supplement is decreasing, their number is steadily growing (Table 38).*

*The Old Age Security (OAS) program also makes available a Spouse's Allowance (SPA) on an income-tested basis to the 60-64 year old spouse of an OAS pensioner.*

*In 1982, over 70,000 women received either full or partial spouse's allowance benefits compared with under 7,000 men. The proportions and number of males and females receiving the full spouse's benefits are decreasing while the number of individuals receiving partial benefits is steadily rising (Table 39).*

## SOCIAL SECURITY IN UNEMPLOYMENT

*Unemployment Insurance benefits are income-dependent, and we would therefore expect that in general the lower-paid female portion of the labour force would receive smaller benefits on average than the higher paid male portion of the labour force. In 1980 the average weekly UI regular benefit for females was $90.80 - that for males was $122.50 - a ratio of about 74% which increased up to 1977 and then levelled off (Table 40).*

*In 1980, UI sickness benefits paid to female recipients, averaging $97.00 per week, are again approximately three quarters of that paid to males. As recent as 1972 UI terminations for sickness for females were about half that for men. Seven years later those for females had risen to slightly above those for men. Without further data it can only be speculated that this change may reflect both the increased labour force participation of women and their concentration in industries and occupations where employer or union-sponsored sickness benefits are less likely to be available (Table 41).*

## SOCIAL SECURITY IN CASE OF DISABILITY

*Within the confines of the Canada and Quebec Pension Plans, disability pensions are available to contributors who have a severe and prolonged physical or mental impairment that prevents them from pursuing any gainful occupation. In 1981, there were over 31,000 women receiving such benefits and almost 80,000 men, reflecting the lower number of female contributors to these plans (Table 42).*

*Benefits are higher for men in both disability pension plans parallelling their higher earnings. Benefits are some one hundred dollars a month higher for both men and women in Quebec as compared with the rest of the country (Table 43).*

## Table 31.Contributors to Canada and Quebec Pension Plans, 1975 to 1980.

| YEAR(1) | Contributors | | | Contributors as a % of population 18-64 years of age. | | |
|---|---|---|---|---|---|---|
| | Female | Male | Total | Female | Male | Total |
| | Thousands | | | Per cent | | |
| 1975 | 3596 | 6378 | 9974 | 53.8 | 95.6 | 74.7 |
| 1976 | 3725 | 6437 | 10162 | 54.5 | 94.4 | 74.4 |
| 1977 | 3812 | 6513 | 10325 | 54.5 | 93.4 | 73.9 |
| 1978 | 3944 | 6553 | 10497 | 55.2 | 92.1 | 73.6 |
| 1979 | 4189 | 6715 | 10904 | 57.5 | 92.6 | 75.0 |
| 1980 | 4245 | 6696 | 10941 | 57.1 | 90.5 | 73.8 |

Note: (1) Calendar year.

Source: Data Provided by Social Security Statistics Section, Health Division, Statistics Canada.

## Table 32. Beneficiaries of Retirement Pensions under Canada and Quebec Pension Plans, 1970 to 1981.

| YEAR(1) | Beneficiaries | | | Beneficiaries as a % of population 65 years of age and over | | |
|---|---|---|---|---|---|---|
| | Female | Male | Total | Female | Male | Total |
| | Number | | | Per cent | | |
| 1970 | 31095 | 115600 | 146695 | 3.3 | 15.1 | 8.6 |
| 1971 | 49175 | 171055 | 220230 | 5.1 | 21.9 | 12.6 |
| 1972 | 66675 | 213813 | 280488 | 6.7 | 26.8 | 15.7 |
| 1973 | 83980 | 253679 | 337659 | 8.2 | 31.2 | 18.4 |
| 1974 | 105681 | 302858 | 408539 | 10.0 | 36.4 | 21.7 |
| 1975 | 128921 | 360761 | 489682 | 11.9 | 42.4 | 25.3 |
| 1976 | 160220 | 448329 | 608549 | 14.2 | 51.2 | 30.4 |
| 1977 | 189135 | 514035 | 703170 | 16.2 | 57.0 | 34.0 |
| 1978 | 218921 | 578038 | 796959 | 18.1 | 62.5 | 37.3 |
| 1979 | 246785 | 629800 | 876585 | 19.7 | 66.1 | 39.7 |
| 1980 | 303560 | 691805 | 995365 | 23.3 | 70.4 | 43.5 |
| 1981 | 340330 | 738930 | 1079260 | 25.4 | 73.4 | 46.0 |

Note: (1) As of March for number of beneficiaries and as of June for population.

Source: Data Provided by Social Security Statistics Section, Health Division, Statistics Canada.

Table 33. Average Monthly Retirement Pensions under Canada and Quebec Pension Plans, 1970 to 1981.

| YEAR(1) | Under C P P | | | Under Q P P | | |
|---|---|---|---|---|---|---|
| | Female | Male | Total | Female | Male | Total |
| | Current dollars | | | Current dollars | | |
| 1970 | 15 | 19 | 18 | 16 | 21 | 20 |
| 1971 | 19 | 24 | 23 | 20 | 26 | 25 |
| 1972 | 22 | 28 | 27 | 23 | 30 | 29 |
| 1973 | 26 | 33 | 31 | 26 | 34 | 32 |
| 1974 | 33 | 42 | 40 | 33 | 42 | 40 |
| 1975 | 41 | 55 | 51 | 41 | 52 | 49 |
| 1976 | 53 | 73 | 67 | 53 | 70 | 66 |
| 1977 | 63 | 87 | 81 | 63 | 86 | 80 |
| 1978 | 73 | 102 | 94 | 76 | 105 | 98 |
| 1979 | 84 | 119 | 109 | 88 | 122 | 113 |
| 1980 | 97 | 138 | 125 | 99 | 140 | 129 |
| 1981 | 111 | 160 | 144 | 113 | 162 | 148 |

Note: (1) As of March.

Source: Data Provided by Social Security Statistics Section, Health Division, Statistics Canada.

## Table 34. Death Benefits Paid under Canada and Quebec Pension Plans, 1970 to 1981.

| YEAR(1) | Death Benefits | | | Benefits paid as a % of deaths 20 years of age and over. | | |
|---|---|---|---|---|---|---|
| | Female deaths | Male deaths | Total deaths | Female | Male | Total |
| | Number | | | Per cent | | |
| 1970 | 2610 | 25320 | 27930 | 4.4 | 30.3 | 19.4 |
| 1971 | 3350 | 27585 | 30935 | 5.5 | 32.6 | 21.2 |
| 1972 | 5201 | 31383 | 36584 | 8.2 | 36.0 | 24.3 |
| 1973 | 4642 | 34431 | 39073 | 7.2 | 38.8 | 25.5 |
| 1974 | 5423 | 37376 | 42799 | 8.2 | 41.6 | 27.4 |
| 1975 | 6180 | 37664 | 43844 | 9.3 | 41.7 | 28.0 |
| 1976 | 7179 | 44598 | 51777 | 10.8 | 49.2 | 33.0 |
| 1977 | 7858 | 45886 | 53744 | 11.7 | 50.4 | 34.0 |
| 1978 | 8316 | 46263 | 54579 | 12.3 | 50.6 | 34.3 |
| 1979 | 8655 | 45775 | 54430 | 12.6 | 50.2 | 34.1 |
| 1980 | 10914 | 56211 | 67125 | 15.4 | 60.8 | 41.1 |
| 1981 | 11271 | 55397 | 66668 | 15.8 | 60.0 | 40.8 |

Note: (1) During the calendar year.

Source: Data Provided by Social Security Statistics Section, Health Division, Statistics Canada.

### Table 35. Surviving Spouses' Pensions Paid under Canada and Quebec Pension Plans, 1970 to 1981.

| YEAR(1) | Number of surviving spouses' pensions | | | Pensions paid as a % of surviving population 20 years of age and over. | | |
|---|---|---|---|---|---|---|
| | Female | Male | Total | Female | Male | Total |
| | Number | | | Per cent | | |
| 1970 | 28422 | —(2) | — | | — | — |
| 1971 | 49086 | — | — | 6.5 | — | — |
| 1972 | 70803 | — | — | 9.2 | — | — |
| 1973 | 94011 | — | — | 11.9 | — | — |
| 1974 | 117745 | — | — | 14.5 | — | — |
| 1975 | 140902 | 690 | 141592 | 17.0 | .4 | 13.9 |
| 1976 | 165935 | 5303 | 171238 | 19.4 | 2.8 | 16.4 |
| 1977 | 192291 | 7305 | 199596 | 22.0 | 3.8 | 18.7 |
| 1978 | 217934 | 9135 | 227069 | 24.4 | 4.7 | 20.9 |
| 1979 | 242978 | 10768 | 253746 | 26.6 | 5.5 | 22.9 |
| 1980 | 296003 | 17861 | 313864 | 31.7 | 8.9 | 27.7 |
| 1981 | 332544 | 21607 | 354151 | 35.0 | 10.7 | 30.7 |

Notes: (1) As March for number of pensions and June for population.
(2) Figures not appropriate or not applicable. Starting in 1975 widowers were treated on an equal basis with widows with respect to entitlement.

Source: Data Provided by Social Security Statistics Section, Health Division, Statistics Canada.

Table 36. Average Monthly Surviving Spouses' Pensions under Canada and Quebec Pension Plans, 1970 to 1981.

| YEAR(1) | Under C P P | | | Under Q P P | | |
|---|---|---|---|---|---|---|
| | Female | Male | Total | Female | Male | Total |
| | Current dollars | | | Current dollars | | |
| 1970 | 59 | ---(2) | --- | 59 | --- | --- |
| 1971 | 59 | --- | --- | 59 | --- | --- |
| 1972 | 60 | --- | --- | 60 | --- | --- |
| 1973 | 61 | --- | --- | 103 | --- | --- |
| 1974 | 70 | --- | --- | 111 | --- | --- |
| 1975 | 76 | 64 | 75 | 120 | 107 | 119 |
| 1976 | 84 | 69 | 83 | 131 | 106 | 130 |
| 1977 | 91 | 74 | 90 | 139 | 110 | 138 |
| 1978 | 97 | 80 | 97 | 146 | 115 | 145 |
| 1979 | 106 | 89 | 105 | 156 | 123 | 155 |
| 1980 | 110 | 74 | 108 | 167 | 134 | 166 |
| 1981 | 120 | 78 | 117 | 181 | 147 | 179 |

Notes: (1) As of March.

(2) Figures not appropriate or not applicable. Starting in 1975 widowers were treated on an equal basis with widows with respect to entitlement.

Source: Data Provided by Social Security Statistics Section, Health Division, Statistics Canada.

Table 37.
Membership of Employer Sponsored Contributory and Non-Contributory Plans
1970, 1978 and 1980. (1)

| YEAR | Members | | | Members as a % of labour force population | | | Members as a % of full-time paid workers | | |
|---|---|---|---|---|---|---|---|---|---|
| | Female | Male | Total | Female | Male | Total | Female | Male | Total |
| | Number | | | Per cent | | | Per cent | | |
| 1970 | 735490 | 2086846 | 2822336 | 26.9 | 37.7 | 34.1 | ..(2) | .. | .. |
| 1978 | 1240737 | 2952507 | 4193244 | 31.0 | 44.9 | 39.6 | 47.1 | 57.1 | 53.7 |
| 1980 | 1377733 | 3097696 | 4475429 | 31.2 | 45.1 | 39.7 | 47.8 | 57.3 | 54.0 |

Notes: (1) Labour Force data used are Annual Averages for 1969, 1977 and 1979 and includes the Armed Forces.
(2) Figures not available.

Source: Pension Plans in Canada, Catalogue 74-401 Biennal, 1980.

## le 38. Old Age Security Pension and Guaranteed Income Supplement Recipients, 1978, 1980 and 1982.

| Sex and Type of Benefit | June 1978 |  | June 1980 |  | June 1982 |  |
|---|---|---|---|---|---|---|
| FEMALE | Number | Per cent | Number | Per cent | Number | Per cent |
| Total OAS/GIS | 1173412 | 100.0 | 1272725 | 100.0 | 1356241 | 100.0 |
| OAS only | 502715 | 42.8 | 566926 | 44.5 | 621005 | 45.8 |
| OAS + GIS | 670697 | 57.2 | 705799 | 55.5 | 735236 | 54.2 |
| Full GIS | 247594 | 21.1 | 228874 | 18.0 | 208144 | 15.3 |
| Partial GIS | 423103 | 36.1 | 476925 | 37.5 | 527092 | 38.9 |
| MALE |  |  |  |  |  |  |
| Total OAS/GIS | 881280 | 100.0 | 949972 | 100.0 | 1005311 | 100.0 |
| OAS only | 434554 | 49.3 | 489511 | 51.5 | 532297 | 52.9 |
| OAS + GIS | 446726 | 50.7 | 460461 | 48.5 | 473014 | 47.1 |
| Full GIS | 147759 | 16.8 | 128185 | 13.5 | 110605 | 11.0 |
| Partial GIS | 298967 | 33.9 | 332276 | 35.0 | 362409 | 36.0 |

Source: Data Provided by Policy Planning and Information Branch, Health and Welfare Department.

## Table 39. Recipients of Spouse's Allowance, 1978, 1980 and 1982.

| SEX | 1978 | | 1980 | | 1982 | |
|---|---|---|---|---|---|---|
| FEMALE | Number | Per cent | Number | Per cent | Number | Per cent |
| Total SPA | 65380 | 100.0 | 68140 | 100.0 | 70717 | 100.0 |
| Full SPA | 7524 | 11.5 | 6308 | 9.3 | 5349 | 7.6 |
| Partial SPA | 57856 | 88.5 | 61832 | 90.7 | 65378 | 92.4 |
| MALE | | | | | | |
| Total SPA | 5636 | 100.0 | 6354 | 100.0 | 6836 | 100.0 |
| Full SPA | 1419 | 25.2 | 1330 | 20.9 | 1287 | 18.8 |
| Partial SPA | 4217 | 74.8 | 5024 | 79.1 | 5549 | 81.2 |

Source: Data Provided by Policy Planning and Information Branch, Health and Welfare Department.

### Table 40. Unemployment Regular Insurance Benefit Periods Terminated and Average Weekly Benefit, 1972 to 1980.

| YEAR | PERIODS TERMINATED(1) |  | AVERAGE WEEKLY BENEFIT |  |
|---|---|---|---|---|
|  | FEMALE | MALE | FEMALE | MALE |
|  | Number |  | Current dollars |  |
| 1972 | 266990 | 553850 | 45.55 | 66.65 |
| 1973 | 552530 | 1083640 | 49.95 | 72.32 |
| 1974 | 514620 | 971800 | 55.14 | 79.14 |
| 1975 | 574220 | 1090690 | 61.94 | 87.73 |
| 1976 | 651910 | 1328030 | 69.86 | 96.04 |
| 1977 | 624740 | 1170190 | 76.48 | 103.15 |
| 1978 | 613550 | 1221180 | 84.01 | 112.27 |
| 1979 | 586010 | 1079010 | 85.99 | 115.31 |
| 1980 | 520840 | 995190 | 90.80 | 122.50 |

Note: (1) A benefit period terminates when benefit is no longer payable. This occurs when a claimant has received all the benefits to which he or she is entitled or the period during which benefit is payable has ended. A claim terminating in aparticular year may have been established in a previous year.

Source: Benefit Periods Established and Terminating under the Unemployment Insurance Act, Catalogue 73-201 Annual.

## Table 41. Unemployment Sickness Insurance Benefit Periods Terminated and Average Weekly Benefit, 1972 to 1980.

| YEAR | PERIODS TERMINATED(1) |  | AVERAGE WEEKLY BENEFIT |  |
|---|---|---|---|---|
|  | FEMALE | MALE | FEMALE | MALE |
|  | Number |  | Current dollars |  |
| 1972 | 19730 | 37800 | 46.33 | 58.83 |
| 1973 | 44570 | 55310 | 54.30 | 69.21 |
| 1974 | 51390 | 61740 | 60.42 | 78.78 |
| 1975 | 52470 | 59250 | 68.65 | 90.01 |
| 1976 | 43430 | 46290 | 77.43 | 99.44 |
| 1977 | 54880 | 55390 | 86.26 | 110.18 |
| 1978 | 32270 | 39770 | 93.27 | 118.23 |
| 1979 | 51790 | 50890 | 96.00 | 125.62 |
| 1980 | 48650 | 46360 | 97.37 | 127.81 |

Notes: (1) A benefit period terminates when benefit is no longer payable. This occurs when a claimant has received all the benefits to which he or she is entitled or the period during which benefit is payable has ended. A claim terminating in aparticular year may have been established in a previous year.

Source: Benefit Periods Established and Terminating under the Unemployment Insurance Act, Catalogue 73-201 Annual.

Table 42. Beneficiaries of Disability Pensions under Canada and Quebec Pension Plans, 1970 to 1981.

| YEAR(1) | Beneficiaries | | | Beneficiaries as a % of population 22 years of age and over | | |
|---|---|---|---|---|---|---|
| | Female | Male | Total | Female | Male | Total |
| | Number | | | Per cent | | |
| 1970 | —(2) | — | — | — | — | — |
| 1971 | 532 | 3492 | 4024 | —(3) | .1 | — |
| 1972 | 2114 | 12187 | 14301 | — | .2 | .1 |
| 1973 | 4240 | 21421 | 25661 | .1 | .4 | .2 |
| 1974 | 7087 | 30902 | 37989 | .1 | .6 | .3 |
| 1975 | 10253 | 38921 | 49174 | .2 | .7 | .4 |
| 1976 | 14316 | 48431 | 62747 | .2 | .8 | .5 |
| 1977 | 18765 | 59315 | 78080 | .3 | 1.0 | .6 |
| 1978 | 21352 | 64133 | 85485 | .3 | 1.0 | .7 |
| 1979 | 24227 | 69705 | 93932 | .4 | 1.1 | .8 |
| 1980 | 27121 | 75148 | 102269 | .4 | 1.1 | .8 |
| 1981 | 31180 | 79989 | 111169 | .5 | 1.2 | .8 |

Notes: (1) As of March for number of beneficiaries and as of June for population.
(2) Figures not appropriate or not applicable.
(3) Amount too small to be expressed.

Source: Data Provided by Social Security Statistics Section, Health Division, Statistics Canada.

## Table 43. Average Monthly Disability Pensions under Canada and Quebec Pension Plans, 1970 to 1981.

| YEAR(1) | Under C C P | | | Under Q P P | | |
|---|---|---|---|---|---|---|
| | Female | Male | Total | Female | Male | Total |
| | Current dollars | | | Current dollars | | |
| 1970 | ..(2) | .. | 82 | —(3) | — | — |
| 1971 | 78 | 88 | 87 | 81 | 91 | 89 |
| 1972 | 82 | 94 | 92 | 84 | 95 | 94 |
| 1973 | 83 | 96 | 94 | 140 | 149 | 148 |
| 1974 | 93 | 109 | 106 | 149 | 161 | 159 |
| 1975 | 101 | 120 | 115 | 162 | 176 | 174 |
| 1976 | 110 | 132 | 127 | 179 | 196 | 193 |
| 1977 | 119 | 143 | 137 | 193 | 213 | 210 |
| 1978 | 129 | 156 | 149 | 209 | 232 | 227 |
| 1979 | 143 | 174 | 165 | 230 | 256 | 251 |
| 1980 | 159 | 193 | 183 | 254 | 284 | 278 |
| 1981 | 178 | 216 | 205 | 282 | 316 | 309 |

Notes: (1) As of March.
(2) Figures not available.
(3) Figures not appropriate or not applicable.

Source: Data Provided by Social Security Statistics Section, Health Division, Statistics Canada.

## ARTICLE 11.1(f)

> States Parties shall ... ensure, on a basis of equality of men and women, the same rights, in particular:
> (f) The right to protection of health and safety in working conditions, including the safeguarding of the function of reproduction.

Both the right to protection of health and the right to safe working conditions are guaranteed equally to both sexes under occupational health and safety legislation although the statutes of many jurisdictions exclude domestic workers from their protection. The major responsibility for regulating health and safety in the workplace lies with the provinces, the federal government being responsible only for those workplaces within its jurisdiction.

The Canadian Centre for Occupational Health and Safety, established in Hamilton in 1978, acts as national clearinghouse agency for information and advice on occupational safety.

Referring specifically to the function of reproduction, the following activities are underway:

- the Federal-Provincial Working Group on the Development of Guidelines to Control Risks for Women in Industry, the first task of which is an examination of pregnancy as it relates to work;

- the federal Task Force on Micro-Electronics and Employment has reported on the ways in which women are affected by such technology;

- Ontario has established two task forces to examine health hazards in the workplace; the Task Force for Women and Occupational Health and the Task Force on the Possible Health Hazards of Visual Display Units;

- Health and Welfare Canada has established a Reproductive Health Task Force to review activities and concerns relating to the function of reproduction.

In terms of legislation, the Canada Labour Code, for example, provides for health and safety standards in employment and for safety procedures and techniques. Employers have a duty to operate an undertaking in a manner that will not endanger the safety or health of any employee. Employees have a duty to take precautions to ensure their own protection by the use of protective clothing and equipment. Further, the right to lay down tools for health or safety reasons is provided for in many collective agreements, in Saskatchewan's Occupational Health and Safety Act (s.26) and in Section 82.1 of the Canada Labour Code which reads, in part, as follows:

82.1(1) Where a person employed upon or in connection with the operation of any federal work, undertaking or business has reasonable cause to believe that

(a) the use or operation of a machine, device or thing would constitute an imminent danger to the safety or health of himself or another employee, or

(b) a condition exists in any place that would constitute an imminent danger to his own safety or health,

that person may refuse to use or operate the machine, device or thing or to work in the place.

## ARTICLE 11.2

> In order to prevent discrimination against women on the grounds of marriage or maternity and to ensure their effective right to work, States Parties shall take appropriate measures:

Discrimination against women (and men) on the grounds of their marital status is prohibited under all Canadian human rights codes. It is also prohibited in the two territories under the appropriate Fair Practices legislation.

The only human rights statute which specifically prohibits discrimination on the basis of pregnancy (deemed to be sex discrimination) is that of Saskatchewan. An amendment to Quebec's Charter, which has been passed but not proclaimed, modifies section 10 by adding 'pregnancy' to the prohibited grounds of discrimination. An amendment to the Canadian Human Rights Act has been tabled specifying that" ... where the ground of discrimination is pregnancy or childbirth, the discrimination shall be deemed to be on the ground of sex".

The difference in the treatment given to pregnant women under the Unemployment Insurance Act has been challenged before the courts by a claimant who alleged that it amounted to discrimination on the basis of sex and violated the equality before the law provision of the Canadian Bill of Rights. In the decision rendered in this case in 1978, the Supreme Court of Canada held that the special conditions applicable to pregnant women did not contravene the Canadian Bill of Rights, as they formed an integral part of a legislative scheme enacted for valid federal objectives and were concerned with conditions from which men were excluded. The Court held that these provisions did not discriminate against women, but rather, provided pregnant women with benefits additional to the other benefits provided for in the Act.*

The most recent comment on the issue of pregnancy discrimination comes from a Review Tribunal appointed by the Canadian Human Rights Commission. The decision has been summarized in the following manner:

> The Review Tribunal dismisses the appeal and upholds the ruling that discrimination because of pregnancy constitutes discrimination because of sex. The Review Tribunal, however, finds that pregnancy is not an illness and consequently the

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* Stella Bliss v. the Attorney General of Canada, 92 D.L.R. (3rd) 1979, 1 S.C.R. 183.

employer's refusal to allow the use of sick leave for the purpose of childbirth does not constitute discrimination. The employer cannot refuse the use of annual leave for the purpose of childbirth and the Tribunal's order for reimbursement of annual leave and compensation for damages is upheld.*

---

* (1983) 4 C.H.R.R., Decision 236, p. D/1169, January 1983.

ARTICLE 11.2(a)

> ... States Parties shall take appropriate measures:
>
> (a) To prohibit, subject to the imposition of sanctions, dismissal on the grounds of pregnancy or of maternity leave and discrimination in dismissals on the basis of marital status;

Statutory measures providing for maternity leave and protection of pregnancy are found in the provincial and federal labour standards legislation. Employers are required to give leave but not to pay workers for the duration of such leave. The two territories are without statutory provisions preventing discrimination against women on the grounds of maternity.

Five jurisdictions prohibit dismissal on the grounds of pregnancy or of maternity leave (Alberta, British Columbia, Canada, Prince Edward Island, Saskatchewan). New Brunswick and Quebec prohibit dismissal on the ground of pregnancy alone while Newfoundland prohibits dismissal for absence by reason of maternity leave. In Ontario, an employee may not be dismissed for reasons of pregnancy if she qualifies for pregnancy leave. Manitoba legislation prohibits the dismissal or layoff of an employee solely because of pregnancy or application for maternity leave if the employee has completed 12 consecutive months of employment. And the Manitoba Human Rights Commission has accepted complaints of sex discrimination arising from dismissals or lay-offs because of pregnancy even before the 12 month qualifying period has elapsed.

In Saskatchewan, the protection afforded to pregnant workers is more extensive. Discrimination on the basis of pregnancy and pregnancy-related illness is prohibited in all areas of employment, including application forms, pre-employment interviews, hiring, dismissal and any other term or condition of employment.

In the two jurisdictions without provision for maternity leave (Yukon Territory, Northwest Territories), it is to be assumed that discrimination against or dismissal of women on the grounds of maternity is not proscribed.

Most of the legislation prohibiting dismissal allows for investigation of complaints. Employers who refuse to comply with the settlement proposed by the designated enforcement agency, may be referred to the courts where fines and/or prison sentences may be ordered. Penalties for contravention vary in the size of the fine and/or the length of the sentence ordered according to whether the employer is a corporation or an individual.

All jurisdictions in Canada prohibit the use of marital status as a basis for discriminating against an employee. Manitoba also prohibits discrimination based on family status, defined for the purpose of the Human Rights Act as including:

> 1(d.1) ... the status of an unmarried person or parent, a widow or widower or that of a person who is divorced or separated or the status of the children, dependants, or members of the family of a person;

## ARTICLE 11.2(b)

> ... States Parties shall take appropriate measures:
>
> (b) To introduce maternity leave with pay or with comparable social benefits without loss of former employment, seniority, or social allowances;

Canada has introduced a system of "comparable social benefits" to ensure the effectiveness of women's right to work. Since 1971, the Unemployment Insurance Commission (under authority of the Unemployment Insurance Act, 1971) has paid benefits to eligible workers whose earnings are interrupted by pregnancy.

A woman who wishes to claim maternity benefits must have 20 weeks of insurable employment in the previous fifty-two. She must also prove she was a member of the work force for at least 10 weeks between the 30th and 50th week prior to the expected date of birth. Benefits are payable, after a two-week waiting period, for a maximum of 15 consecutive weeks. Flexibility is given to the claimant, that is, payments may commence as early as eight weeks before the expected date of confinement and may end as late as 17 weeks after the week of confinement. A claimant is required to furnish a medical certificate setting out the expected date of confinement and to give the date of birth of the child. The benefit rate is 60% of the woman's average insurable earnings up to a specified maximum amount.

Additional benefits are available to certain employees.

- The UI payments of public and para-public employees on maternity leave in Quebec are supplemented by the provincial government to provide 93% of regular pay and an additional five weeks of benefits.
- Collective agreements between the federal government and unions representing postal workers, translators and clerical workers also provide for a supplement of UI payments to 93% of regular pay for up to 17 weeks.
- In June 1982 the Government of Manitoba signed its collective agreement with the Manitoba Government Employees' Association, the union which represents most of the province's civil servants. Article 30 of the Master Agreement now provides two options for staff who apply for Maternity Leave: Option A (leave without pay); or Option B (leave with pay under the following conditions) 17 weeks at 93% of weekly rate of pay, being 15 weeks Unemployment Insurance benefit period and 2 week Unemployment Insurance waiting period.

Provincial statutes and the federal code require employers to provide unpaid leave on the following terms and conditions:

- a qualifying period of 12 months continuous employment;

- a leave period of 12/18 weeks to begin up to 11 weeks before the expected date of birth and to end not longer than 6 weeks after confinement;
- notice in writing of intention to take leave is to be provided to the employer;
- a medical certificate certifying pregnancy and stating expected date of birth.

Of the eleven jurisdictions providing for maternity leave, ten require the employer to re-instate in the same or a comparable job, employees whose maternity leave has expired. New Brunswick is the only jurisdiction not requiring this action. The other ten require also that the same benefits and the same wages (except Nova Scotia) be paid when the employee returns to work.

Only the legislation of Nova Scotia, Ontario and Saskatchewan specifically requires seniority to be protected. Quebec requires the employer to reinstate the employee to her former position with all the rights and benefits to which she would have been entitled had she continued to work.

No jurisdiction includes the period of leave in computations relating to benefits and pensions. However, the Saskatchewan Human Rights Commission is presently exploring the question of the benefits provided to women during pregnancy leave.*

Employers of domestic workers in private residences are exempted from providing maternity leave in Alberta, Newfoundland, Nova Scotia and in certain instances in Quebec.

A committee of federal Ministers was established late in 1981 to undertake a comprehensive review of paid maternity leave in Canada. The work of this committee is now in progress.

### STATISTICAL DIGEST: ARTICLE 11.2(b)

*Maternity benefit payments averaging $133 a week are greater than regular UI payments and UI sickness benefits for women. There were approximately 94,000 maternity benefit claims that terminated in 1980, over five times the number of claims terminated seven years earlier (Table 44).*

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* Discussion of this question can be found in Human Rights and Benefits in the '80's: An Interpretation of the Saskatchewan Human Rights Code as it Applies to Pensions, Employee Benefits and Insurance (Saskatoon: Saskatchewan Human Rights Commission, 1981).

Table 44. Unemployment Maternity Insurance Benefit Periods Terminated and Average Weekly Benefit, 1972 to 1980.

| YEAR | PERIODS TERMINATED(1) | AVERAGE WEEKLY BENEFIT |
|---|---|---|
| | FEMALE | FEMALE |
| | Number | Current dollars |
| 1972 | 7680 | 61.65 |
| 1973 | 17590 | 73.59 |
| 1974 | 20490 | 79.23 |
| 1975 | 24260 | 90.31 |
| 1976 | 43830 | 101.06 |
| 1977 | 64910 | 111.62 |
| 1978 | 82050 | 120.43 |
| 1979 | 89140 | 120.66 |
| 1980 | 94350 | 133.01 |

Note: (1) A benefit period terminates when benefit is no longer payable. This occurs when a claimant has received all the benefits to which he or she is entitled or the period during which benefit is payable has ended. A claim terminating in aparticular year may have been established in a previous year.

Source: Benefit Periods Established and Terminating under the Unemployment Insurance Act, Catalogue 73-201 Annual.

> ARTICLE 11.2(c)
>
> ... States Parties shall take appropriate measures:
>
> (c) To encourage the provision of the necessary supporting social services to enable parents to combine family obligations with work responsibilities and participation in public life in particular through promoting the establishment and development of a network of child-care facilities;

The standards, administration, financial arrangements and the extent and type of day care service are matters within the jurisdiction of provincial governments. Day care programs and funding have been under review in several provinces. In Saskatchewan, a Day Care Review that included province-wide public hearings was completed in 1980 and resulted in a 100% increase in day care funding for 1981-82. Ontario and Manitoba also increased their day care budgets substantially in that year, and British Columbia is currently implementing major changes in its social services systems that include increased subsidies for day care and grants to assist non-profit societies establish day care centres.

The federal government provides consultation to provinces and community-based day care associations on legislative program design and service delivery issues and convenes an annual federal-provincial conference of directors of day care.

The National Day Care Information Centre of the federal Department of Health and Welfare distributes material on request and prepares the annual report, Status of Day Care in Canada. The federal government is now engaged in a major policy review of its role in day care with a view to proposing options for future directions.

As a consequence of the provincial responsibility for day care, the pattern of delivery varies across Canada as the following excerpt shows:

> Each province has its own pattern of delivering day care services. Ontario and Alberta are the only provinces that have publicly owned day care centres. This is directly correlated with the fact that the municipalities, in both provinces, have had an active involvement in the delivery of day care services.
>
> The non-profit day care centres predominate in British Columbia, Saskatchewan, Manitoba, and Quebec. In Saskatchewan, only parent cooperatives qualify for licensing. Due to some definitional problems it is not desirable to make generalizations from the data concerning parent cooperatives.

In Ontario, commercial and non-profit centres are approximately equal in numbers. Commercial centres predominate in Alberta: they outnumber non-profit centres by a ratio of 2 to 1.

Family day care is a significant part of the day care programs in the Western provinces and in Ontario, with Ontario and British Columbia accounting for the greater percentage of the spaces. Family day care in Quebec is a relatively new program as reflected by the number of spaces. In Eastern Canada, most provinces have expressed considerable interest in developing family day care services.*

### British Columbia

Child care facilities are provided under the *Guaranteed Available Income for Need Act,* (section 1), to assist families in meeting the care needs of children up to twelve years of age through a variety of programs. They are also offered to provide support when a parent is working, attending an educational institution or during prolonged illness or other family crisis. Children with designated handicaps can receive specialized day care services. These services are available to all citizens and subsidies are provided upon need under the Day Care Services Program.

### Alberta

Child care services in Alberta are governed by the Day Care Regulations of the *Social Care Facilties Licensing Act.*

### Ontario

The Government of Ontario provides funding for subsidized day care through municipalities, Indian Bands and approved corporations. Priority of access to subsidized spaces is given to families with children with special needs, working sole-support mothers, and low income families.

### Quebec

For the situation in Quebec see Appendix II, The Report of Québec, pp. 35-36.

### New Brunswick

The Department of Social Services has undertaken several initiatives to improve the availability of quality day care services. The Department provides financial assistance to families with a social or financial need for day care services. A 'social need' is defined as a situation where one or both parent(s) are working, in training, or undergoing a program of rehabilitation or treatment or where a child's circumstances or development indicates a need for the service. A family must also demonstrate financial need for a day care subsidy. This need is determined by considering the total family income (including family allowance) and family size in relation to the total care cost.

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* Health and Welfare Canada, *Status of Day Care in Canada 1980* (Ottawa: Health and Welfare Canada) p.12.

The Minister of Social Services has recently announced an increase in the maximum per diem rate for infants and children over the age of 2. In addition, the government will provide a flat rate subsidy to all non-profit day care centres and to eligible commerical centres. These subsidies are paid directly to the centres based on the number of children registered.

The Department continues to provide funding for day care centres for children with special needs and attempts to compensate for the extra costs incurred by the specialized staff and the additional equipment required at such centres.

In addition, new regulations, standards and guidelines for day care services will be introduced in the Fall of 1982.

The federal government supports social services which help ensure the effective right of women to work through three programs. It participates, through the Canada Assistance Plan, in the provision of day care for children of working mothers. Through Section 63 of the Income Tax Act, it provides a tax deduction for child care expenses. And, it provides for day care centres through the Canada Community Services Project.

- Under the Income Tax Act, certain child care costs are allowed as a deduction for tax purposes from the income of a working mother and, under certain circumstances from the income of the father. The expense deduction is available to women where the expenses were incurred to enable her to work, to take occupational training under the National Training Act, 1982 or to undertake research for which she has received a grant. Men may claim if they are "single, widowed, divorced or separated by written agreement or government order" or if the mother is unable to care for the children due to imprisonment, illness or disability. The maximum deduction allowed is $1,000 per child up to a maximum of $4,000 per family.

  Section 63 has been said by a Canadian Human Rights Tribunal to discriminate on the grounds of sex and marital status against separated husbands who have custody but who do not have the required court order, although the Tribunal in the final result concluded that the Canadian Human Rights Act could not be used to strike down the provision of another federal statute.*

In addition, it should be noted that persons employing domestics and/or babysitters are the only employers to pay wages out of after-tax dollars. All other employers pay their wage bills out of pre-tax dollars. Parents who must hire domestics and/or babysitters to care for their children thus incur considerable extra expense.

The Canada Assistance Plan Act is enabling legislation in that it permits the sharing of costs for welfare services with the provinces. Federal cost-sharing of welfare services is restricted to "persons in need or persons who are likely to become persons in need" and their object must be "the lessening, removal or prevention of the causes and effects of poverty, child-neglect or dependence on public assistance". Thus, the federal government can pay half of certain operating costs of non-profit centres on behalf of users who meet financial eligiblity criteria set by the provinces.

The Canada Community Services Project

The Canada Community Services Project is a national program which supports job creation in the voluntary and community social service sector. Such organizations may apply for funding for up to three years. Since 1980, 31 projects have been funded for transition houses for battered women at an approximate cost of $1.6 million and 43 projects for day care centres at an approximate cost of $1.3 million.

*STATISTICAL DIGEST: ARTICLE 11.2 (c)*

*There were approximately 109,000 day care spaces available in 1980, and over 680,000 working mothers with children under 6 (Table 45). In February 1981, a survey of child care arrangements was conducted as a supplement to the Labour Force Survey. The findings of the survey include the following observations.*

*Of the 2.2 million preschool-age children, 1.1 million (52%) had some sort of non-parental care each week while the balance (1.0 million or 48%) were cared for exclusively by their parents in their own home.*

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* Roberta Bailey, William Carson, Real J. Pellerin, Michael McCaffrey and the Canadian Rights Commission v.Her Majesty the Queen in Right of Canada, as Represented by the Minister of National Revenue, Canadian Human Rights Tribunal. Decision rendered October 14, 1980.

Among pre-school age children receiving non-parental care, 43% were in nursery schools or kindergartens, 11% in day care centres, 36% were cared for in their own homes and another 36% were cared for in another private home. Since some children are cared for by more than one type of arrangement each week, the above estimates add to more than the total number of preschool-age children receiving some form of non-parental care (1,133,000). Similarly the percentages add to more than 100.

Among the 1.1 million preschool-age children receiving some non-parental care, in only an estimated 165,000 cases (15%), did the parents say that they would like to change the care arrangements.

Among the 3.3 million school-age children (those age 6-14), care after school was provided in 71% of the cases by a mother or father, in 8% of the cases by a brother, sister or other relative, in 6% of the cases by a school, community program or some other arrangement, and in 16% of the cases the child took care of himself or herself.

The survey also showed that few women had to leave or refuse a job over the twelve-month period because of problems with child care arrangements. Of the 2.9 million women covered by this question, only 121,000 (4%) said that problems with child care arrangements impeded their involvement in the labour force to the extent that they were obliged to refuse or leave a job.

ble 45. Day Care Spaces Available and Number of Working Mothers with Children under 6 Years, 1975 to 1980.

| YEAR | DAY CARE<br>Number of centres | Number of centre spaces | Number of family day care spaces | Total spaces | Number of working mothers with children under 6 years of age |
|---|---|---|---|---|---|
| | | | Number | | |
| 1975 | 1839 | 65281 | 4671 | 69952 | 526801 |
| 1976 | 1955 | 78153 | 5367 | 83520 | 537788 |
| 1977 | 1962 | 76117 | 5534 | 81651 | 569737 |
| 1978 | 2050 | 74516 | 7763 | 82279 | 613283 |
| 1979 | 2484 | 84083 | 9769 | 93852 | 649024 |
| 1980 | 2719 | 98238 | 10903 | 109135 | 662827 |

Sources: Status of Day Care in Canada, Health and Welfare Canada, 1977 to 1960.
Data Provided by Labour Force Survey, Activity Section.

ARTICLE 11.2(d)

> ... States Parties shall take appropriate measures:
>
> (d) To provide special protection to women during pregnancy in types of work proved to be harmful to them.

The only jurisdiction to have regulated the protection of pregnant women workers is Quebec. By virtue of an ordinance made pursuant to the Minimum Wages Act, an employee may request other work up until the time maternity leave begins if working conditions are hazardous to the unborn child. Both Quebec's Labour Standards Act and its Occupational Health and Safety Act require employers to transfer a pregnant employee to other work if conditions of work pose any physical danger to her or to her unborn child.

Saskatchewan, although the legislation is not specifically worded to protect pregnant workers, has a general provision in the Occupational Health and Safety Act, (section 26), which has the same effect as Quebec's legislation. Pregnant women have the right to be temporarily assigned to alternative work at no loss in pay to the worker if she has reasonable grounds to believe her health or her child's health is endangered. Women who work on video display terminals have been able to transfer to alternative work during pregnancy because of this provisions.

Alberta, Saskatchewan, Manitoba, Ontario, Nova Scotia and Newfoundland all have provisions specifying lower amounts of radiation exposure for radiation workers who are pregnant.

ARTICLE 11.3

> Protective legislation relating to matters covered in this article shall be reviewed periodically in the light of scientific and technological knowledge and shall be revised, repealed or extended as necessary.

The process of reviewing job-related legislation is a continuous one in Canada. Each year the Deputy Ministers of Labour meet as the Canadian Association of Administrators of Labour Legislation (CAALL). These meetings serve as forum for the discussion of new issues and for the exchange of information on a Canada-wide basis. The Occupational Safety and Health Committee of CAALL has the subject of protective legislation within its mandate.

And, as noted in the Introduction, Canada denounced ILO Convention 45 (Convention concerning the Employment of Women in Underground Work in Mines of All Kinds) in 1978.

ARTICLE 12.1

> States Parties shall take all appropriate measures to eliminate discrimination against women in the field of health care in order to ensure, on a basis of equality of men and women, access to health care services, including those related to family planning.

The primary constitutional prerogative on the delivery of health services in Canada rests with the provinces. Health care is provided under universal state-sponsored health insurance programs, namely the Hospital Insurance Program and the Medical Care Program. The programs are designed to ensure that all residents of Canada have reasonable access to medical and hospital care on a prepaid basis. The objectives of the programs are achieved through interlocking provincial plans which are required to meet the minimum criteria of the federal legislation in such matters as comprehensiveness of insured services, universality of coverage, reasonable access to insured services without impediment by way of user charges, portability of benefits and non-profit administration by a public agency to qualify for a substantial part of federal funding.

Services insured under the Hospital Insurance Program include in-patient care (including necessary drugs, diagnostic tests, etc.) as well as a broad range of out-patient services which vary from province to province. The Medical Care Program complements the protection afforded by the hospital program. It covers all medically-required services provided by medical practitioners wherever they are rendered. Certain surgical-dental procedures undertaken by dental surgeons in hospitals are also covered.

All ten provinces and the two territories participate in both programs, which provide health insurance coverage for over 99% of the population. Residents not covered under provincial plans (i.e. armed forces, penitentiary prisoners, Royal Canadian Mounted Police) are covered under direct federal programs. Inuit and Registered Indians are covered by the national health insurance programs and also receive certain other medical services directly from the federal government through the Department of National Health and Welfare. Immigrants and certain other categories of new residents to Canada receive first day coverage in all jurisdictions except British Columbia where a waiting period of three months exists.

Because of the constitutional position, the federal health insurance legislation provides each province with considerable leeway in determining a number of important matters, including the administrative arrangements for the operation of its plan; how its share of the costs will be financed; and whether premiums will be required from participants in the plan. Provinces are free to rule on whether services which are not obviously medically necessary are insurable e.g. cosmetic plastic surgery. Federal legislation requires that such policies be applied under uniform terms and conditions for all insured persons.

Many other health services are provided by the provinces either through additional benefits provided under the provincial health insurance plans or through other arrangements that are publicly financed. These additional benefits are offered on varying bases: on a universal basis (e.g. public health services, mental health services, communicable disease control); on an age-related basis (e.g. dental health plan for children); according to disease or condition (e.g. drugs for specified chronic diseases); on a regional basis within a province (e.g. home care services, ambulatory care services); on an income-related basis. There is no discrimination on the basis of sex in the delivery of these additional services.

Health care legislation is usually administered provincially by a Department/Ministry of Health. In some provinces, a commission, responsible to the provincial Minister of Health, administers the provincial hospital and/or medical care insurance plans. Premiums for participating in the health insurance plan exist in some provinces. Generally speaking, persons whose income is below a specified level are exempted from paying all or part of the premium. In most provinces there are no premiums.

Amongst the appropriate measures taken to ensure equal access to the health care system for women are the appointment in the federal government of a Senior Adviser, Status of Women and the appointment in New Brunswick of a Director of Programs for Women at the Alcoholism and Drug Dependency Commission.

- Health and Welfare Canada

  The role and functions of the Senior Adviser, Status of Women, are discussed in Article 3.

- New Brunswick Alcohol and Drug Dependency Commission

  A Director of Programs for Women was appointed in 1978 within the Alcoholism and Drug Dependency Commission. The incumbent is responsible for identifying the needs of women who have an alcohol or drug dependency and developing, implementing and supervising various programs designed to meet their needs and treat them effectively.

  Various educational programs designed to help alleviate the stigma which is often attached to alcoholic or drug dependent women have been implemented. Workshops have been given to generic health workers, educators, students, employers, social workers as well as the general public. The media has also been used extensively to create greater awareness of the problems encountered by drug-addicted women.

Discussion of the situation with regard to family planning is to be found in Article 16.1(e).

## ARTICLE 12.2

> Notwithstanding the provisions of paragraph 1 of this article, States Parties shall ensure to women appropriate services in connection with pregnancy, confinement and the postnatal period, granting free services where necessary, as well as adequate nutrition during pregnancy.

All provinces offer services to pregnant women under the appropriate legislation, usually Public Health or Health Services Acts. Such legislation authorizes the offering of health services to the community through public or community health centres. A variety of personnel may be employed: public health nurses; medical officers; public health inspectors; nutritionists; therapists; health educators etc. Emphasis is placed on the protection of health and on health promotion and education.

As noted earlier almost all eligible residents are covered for necessary hospital and medical practitioners' care under the two national health insurance programs. This pertains to pregnant women and their infants. It means that necessary care of an appropriate quality is available on a prepaid basis without impediment or preclusion by way of user charges or otherwise. Generally speaking, women have free choice of medical practioner and hospital, within realistic constraints, such as geographical limitations, availability of maternity services at particular hospitals, etc.

Under the national Medical Care Program, about 95% of insured medical care services are provided by medical practitioners who are reimbursed on a fee-for-service basis. This ratio probably also applies to pregnancy related services, as well, though some care is provided by salaried physicians and nurses through some public health arrangements. In addition to medical practitioners' care for pregnancy, various public health facilities provide supplementary pre-natal classes which offer various forms of health instruction, exercise, counselling, etc., as required.

In Manitoba, the government has appointed a Director of Maternal and Child Health in the Department of Health. The appointment stems from a recommendation contained in the Report of the Task Force on Maternal and Child Care presented to the government in 1982.*

Most jurisdictions have pre-natal clinics and/or classes. Post-natal health is safeguarded through the provision of well-baby clinics and supervision in the home by public health nurses. Most Canadian children are born in hospitals and appropriate services for confinement are offered there.

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* Community Task Force on Maternal and Child Health Care, A Plan for Maternal and Child Health Care in Manitoba: Submitted to the Minister of Health and the Citizens of Winnipeg (Winnipeg, 1982).

Some women are choosing to have home delivery by doctor or midwife (the latter group are not licensed in Canada). This appears to be a fringe movement at this time In some of the provinces, the legal situation of the non-medical midwife is under review. One provincial medical licensing authority has ruled against its members participating in home birth, other than as may be required in an emergency situation.

Neonatal screening programs are available to a varying degree in all provinces. Newborns are examined at or soon after birth to check for the presence of any congenital anomalies or acquired defects.

- All ten provinces have screening programs for phenylketonuria. Six provinces (Newfoundland, Quebec, Ontario, Manitoba, Saskatchewan and Alberta) have neonatal thyroid screening tests for congenital hypothyroidism (T4 Test). The remaining four provinces have this screening program approved in principle.

- Four provinces (Newfoundland, Quebec, Manitoba and Saskatchewan) have mass screening programs for amnioacidurias either in blood (on the second to fourth day of life) and/or in urine (at the second week of life).

With regard to adequate nutrition all provinces provide group counselling in prenatal classes and individual counselling primarily for at-risk pregnancies. The Canada Assistance Plan enables the federal government to enter into arrangements with the provinces to help finance services to persons in need. Most provinces provide a special diet allowance to pregnant recipients of social assistance. For example, British Columbia makes a special diet allowance available to any pregnant recipient of aid under the Guaranteed Available Income for Need Act and Saskatchewan does the same under the Saskatchewan Assistance Act. Prince Edward Island is the only province providing a food supplementation program in the form of milk tickets, contingent on nutrition counselling, to pregnant women in financial need.

## PRINCIPAL STATUTES

### CANADA

Federal-Provincial Fiscal Arrangements and Established Programs Financing Act, S.C. 1976-77, c. 10.

Hospital Insurance and Diagnostic Services Act, R.S.C. 1970, c. H-8.

Medical Care Act, R.S.C. 1970, c. M-8.

### YUKON TERRITORY

Health Care Insurance Plan Act O.Y.T. 1978, c. H-1.

Hospital Insurance Services Act O.Y.T. 1978, c. H-3.

### NORTHWEST TERRITORIES

Medical Care Ordinance, R.O.N.W.T. 1974, c. M-9.

Territorial Hospital Insurance Ordinance, R.O.N.W.T. 1974, c. T-4.

### BRITISH COLUMBIA

Guaranteed Available Income for Need Act, R.S.B.C. 1979, c. 158.

Health Act, R.S.B.C. 1979, c.161.

Hospital Act, R.S.B.C. 1979, c.176.

Hospital District Act, R.S.B.C. 1979, c. 178.

Hospital District Finance Act, R.S.B.C. 1979, c. 179.

Hospital Insurance Act, R.S.B.C. 1979, c. 180.

Medical Service Act, R.S.B.C. 1979, c. 255.

Society Act, R.S.B.C. 1979, c. 390.

### ALBERTA

Alberta Health Care Insurance Act, R.S.A. 1980, c. A-24.

Hospitals Act, R.S.A. 1980, c. H-11.

Health Insurance Premiums Act, R.S.A. 1980, c. H-5.

Health Unit Act, R.S.A. 1980, c. H-6.

Public Health Act, R.S.A. 1980, c. P-27.

Treatment Services Act, R.S.A. 1980, c. T-8.

### SASKATCHEWAN

Community Health Unit Act, S.S. 1979, c. C-19.1.

Health Services Act, R.S.S. 1978, c. H-1.

Mental Health Act, R.S.S. 1978, c. M-13.
Public Health Act, R.S.S. 1978, c. P-37.
Saskatchewan Assistance Act, R.S.S. 1978, c. S-8.
Saskatchewan Hospitalization Act, R.S.S. 1978, c. S-23.
Saskatchewan Medical Care Insurance Act, R.S.S. 1978, c. S-29.

MANITOBA

Health Services Act, R.S.M. 1970, c. H-30.
Health Services Insurance Act, R.S.M. 1970, c. 81.

ONTARIO

Healing Arts Radiation Protection Act, R.S.O. 1980, c. 195.
Health Disciplines Act, R.S.O. 1980, c. 196.
Health Insurance Act, R.S.O. 1980, c. 197.
Mental Health Act, R.S.O. 1980, c. 262.
Mental Hospitals Act, R.S.O. 1980, c. 263.
Public Health Act, R.S.O. 1980, c. 409.
Public Hospitals Act, R.S.O. 1980, c. 410.

QUEBEC

Act Respecting Health Services and Social Services, R.S.Q., c. S-5.
Public Health Protection Act, R.S.Q., c. P-35.
Health Insurance Act, R.S.Q., c. A-29.
Hospital Insurance Act, R.S.Q., c. A-28.

NEW BRUNSWICK

Health Services Act, R.S.N.B. 1973, c. H-3.
Hospital Services Act, R.S.N.B. 1973, c. H-9.
Medical Services Payment Act, R.S.N.B. 1973, c. M-7.
Public Hospitals Act, R.S.N.B. 1973, c. P-23.

NOVA SCOTIA

Health Services and Insurance Act, S.N.S. 1973, c. 8.

PRINCE EDWARD ISLAND

Health Services Payment Act, R.S.P.E.I. 1974, c. H-2.

Hospital and Diagnostic Services Insurance Act, R.S.P.E.I. 1974, c. H-10.

NEWFOUNDLAND

Medical Act, S.N. 1974, c. 119.
Mental Health Act, S.N. 1971, c. 80.

ARTICLE 13(a)

> States Parties shall take all appropriate measures to eliminate discrimination against women in other areas of economic and social life in order to ensure, on a basis of equality of men and women, the same rights, in particular:
>
> (a) The right to family benefits;

Social assistance is a provincial responsibility in Canada, and the actual structure and administration of assistance varies from province to province: some provinces have separate programs for the blind and disabled, and assist all other needy persons under a general program; other provinces administer assistance to recipients with long-term needs, such as the aged, the disabled, and mothers with children, while leaving short-term assistance to the municipalities. Benefit levels vary from province to province.

Whatever the form of administration or the benefit rates, however, the federal government contributes half of the cost of provincial social assistance programs under the terms of the Canada Assistance Plan (CAP), which is a conditional grant program with remarkably few conditions. To qualify for the federal grant, a provincial social assistance program must base eligibility for assistance on need alone, irrespective of its cause, and must not make previous residence in the province a requirement. Otherwise CAP sets no major constraints on provincial discretion; most important, no minimum or maximum benefit levels are specified.*

## 1 PROVINCIAL PROGRAMS

The following programs are currently operating in British Columbia, Alberta, Saskatchewan, Manitoba, Ontario and New Brunswick.

### a British Columbia

Benefits such as income assistance and subsidy for day care are available on an equal basis to persons in need. The amount of such assistance or subsidy is determined on the basis of the size and combined income of the family unit, regardless of whether it is headed by a man or a woman.

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* Keith Banting, The Welfare State and Canadian Federation (Kingston and Montreal: McGill-Queen's University Press, 1982) p.11.

Family benefits are provided under the Home Purchase Assistance Act. through this act, the Family First Home Grant provides aid to families with at least one dependent child under nineteen years of age purchasing their first home (Single parent and adoptive families are eligible.)

## b Alberta

Provisions of the Social Allowance Regulations under the Social Development Act apply equally to both men and women. This is also true for the provisions determining the eligibility of male or female recipients under the Assured Income for the Severely Handicapped Act.

## c Saskatchewan

The Family Income Plan assists female and male clients by providing monthly supplements to low-income families with children under 18 years of age.

Assistance to individuals and families to meet the cost of food, shelter, utilities, clothing etc. is also provided through the Saskatchewan Assistance Plan. This Plan is the province's basic income support plan and is cost-shared with the federal government.

## d Manitoba

Section 13(1) of the Social Services Administration Act provides for persons who receive a monthly guaranteed income supplement under the Old Age Security Act (Canada) to receive assistance if their total income is below a specified level.

CRISP (Manitoba's Child Related Income Support Program) is a program set up under the provision of this Act to provide income support to low income families for the care of their children. The income received is dependent on the number of children under 18 years of age and the total annual family income. Those families receiving Social Allowance will have their benefits adjusted according to their CRISP benefits.

SAFFR (Manitoba's Shelter Allowances for Family Renters) is another program set up under the provisions of this Act to assist low income families with children in paying their rent. Persons already receiving Social Allowance are not eligible for SAFFR benefits. SAFFR benefits are calculated based on the size of family and its total annual income.

Section 5(1) of the Social Allowances Act specifies the following groups of women to whom social allowance is payable: widows with dependent children; mothers with dependent children who have been deserted by their husband or their husband is in prison or, never married or, divorced not remarried or separated from husband. It is recognized that these groups of women may have a greater difficulty in maintaining or providing the basic necessities of life for themselves and their dependents. Women, never married, but with children are not discriminated against under this Act, they have the right to social allowance. A woman living with a man is considered legally married (Section 5(5) under this Act). Section 5(3) and 5(4) of the Act permits social allowances for working persons who do not earn enough to pay for a day nursery for their children.

Section 7(4) of the Act states that a person receiving a pension is not automatically disqualified from receiving social allowance payments.

### e Ontario

On September 14, 1981, the Government announced changes to Family Benefits to ensure that disabled wives, with husbands who are not disabled or permanently unemployable, are eligible for social assistance.

On July 1, 1982, eligibility for social assistance was extended to all sole-support parents regardless of sex, who meet the needs test criteria.

### f New Brunswick

The Department of Social Services ensures the right of women to family benefits through its Social Welfare Act and its Child and Family Services and Family Relations Act. The Social Welfare Act is the legislative authority under which women are entitled to receive social assistance and supplementary benefits for themselves and their family as well as assistance for day care, nursing home care, care in a special care home, a transition house or an emergency shelter. There is no discrimination based on sex in the rates of assistance granted.

The Child and Family Services and Family Relations Act is the legislative authority under which maintenance can be determined for a woman and her children. Under this new Act, they are entitled to maintenance not only from the spouse but also from anyone standing in the position of spouse or father to the children.

Informational material including brochures and slide presentations, as well as individual counselling are available to ensure women are aware of their rights to benefits for themselves and their families.

## 2 FEDERAL PROGRAMS

There are three major federal programs under which assistance is made available to parents on behalf of their children in Canada. These are: the Family Allowance program administered by the Department of National Health and Welfare Canada under authority of the Family Allowances Act; the Child Tax Credit which is administered under the Income Tax Act; and the child tax exemption for wholly dependent children which is also administered under the Income Tax Act.

a The Family Allowance Program pays parents or guardians a monthly allowance on behalf of each dependent child under the age of 18 years. Benefits are indexed annually and are considered as income for tax purposes. Provincial governments have the option of varying benefits - within certain limits - on the basis of the age of the child and/or family size, provided that the average benefit per child in the province equals the national benefit level. Alberta and Quebec have used this option. The province of Quebec supplements the national benefits using its own funds. Payments are normally made to the mother.

b The Child Tax Credit was introduced in 1979. Administered under the Income Tax Act (s.122.2), the program will pay credits in 1983 of $343 per child in families with 1982 combined incomes of up to $26,330 before tax. The amount of the credit is reduced by $5 for every $100 by which family income exceeds that amount. The credit, which is claimed by the parent receiving the Family Allowance, (normally the mother) provides additional assistance to about two-thirds of all families with children.

c The tax exemption for wholly dependent children is one of a number of personal exemptions provided for by the Income Tax Act. For children with net incomes less than $2,320 in 1982, an exemption of $670 was claimable in 1982 on behalf of children under age 18. For children over age 18, the exemption was $1,220. Exemptions are claimed by the parent who reports Family Allowances as income for tax purposes (normally the father).

The married or equivalent exemption may also be characterized as a personal exemption which benefits families.

## ARTICLE 13(b)

> States Parties shall take all appropriate measures to eliminate discrimination against women in other areas of economic and social life in order to ensure, on a basis of equality of men and women, the same rights, in particular:
>
> (b) The right to bank loans, mortgages and other forms of financial credit;

Jurisdiction over the provision of credit is divided between the federal government and the governments of the provinces. The national banks are chartered by Parliament and are subject to the federal Bank Act which regulates many aspects of their operations. There are eleven chartered banks, eight of which provide services to individual Canadians. In addition, two federal crown corporations, the Canada Mortgage and Housing Corporation and the Farm Credit Corporation, play a large part in the mortgage and agricultural credit fields respectively.

Regulation of other credit-granting agencies is within provincial jurisdiction. Included in this category are such institutions as finance companies, trust companies, credit unions, sales finance companies, credit card organizations and the relevant operations of retail stores.

The equal right of women and men to have access to all forms of financial credit is guaranteed by human rights legislation under a section governing the provision of services which is interpreted to include the provision of credit. The relevant section of the Canadian Human Rights Act is given as an example.

> 5. It is a discriminatory practice in the provision of goods, services, facilities or accommodations customarily available to the general public
>
> (a) to deny, or to deny access to any such good, service, facility or accommodation to any individual, or
>
> (b) to differentiate adversely in relation to any individual,
>
> on a prohibited ground of discrimination.

In Saskatchewan, discrimination in making available to any person a contract which is offered to the public is prohibited by section 15 of the Saskatchewan Human Rights Code. Complaints may be taken under this section against financial lending institutions within provincial jurisdiction.*

## 1 FEDERAL MEASURES

Activities aimed at examining the nature and extent of credit discrimination against women began in the mid-seventies. Under the National Plan of Action, the Department of Consumer and Corporate Affairs was assigned the task of developing programs to inform women about credit and sources of credit.

More recently, the Canadian Human Rights Commission contracted for a study on discrimination by chartered banks in their credit policies. Sufficient evidence was found "to indicate that the banks' application forms and internal lending regulations need to be reviewed in order to ensure consistency with human rights legislation".** In addition, the bank policy which requires the co-signing of spouses for collateral (established subsequent to the entering into force of the new matrimonial property statutes) was found to be potentially discriminatory on the basis of marital status. The continued existence of a long-identified problem, that of the subordination of a wife's credit-rating to her husband's as a result of their common filing by credit bureaus, was held to have negative connotations for equal credit access for women.

The study found cause for concern in the area of access to mortgages and business loans.

> These larger loans are justifiable cause for more caution by bankers than credit cards or consumer loans, but they seem to evoke yet more concern about the capacity of women to repay. On such long-term loans there are prejudices that women will marry, have children and leave the paid work force. Consequently on mortgages there is some reluctance to take into account 100% of a wife's income, dependent only upon the reliability and type of work. Business loans in non-traditional areas, such as farming or law, are likely to raise prejudices concerning a woman's ability in such ventures.**

The Canadian Human Rights Commission in settling a recent (1982) case of discrimination in the provision of services, found that a chartered bank had contravened the law by refusing to issue a credit card because of a spouse's poor credit history.

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* See p. 39 of the Report of Quebec in Appendix II for the situation in Quebec.

** Julie White, Banks and Credit Policies (Ottawa: Canadian Human Rights Commission, 1981) pp. 44 and 35.

## 2 PROVINCIAL MEASURES

A number of the provinces have investigated the problem of women's access to credit. As a result Alberta, Ontario and Saskatchewan have endorsed the Credit Granting Guidelines adopted by the Credit Granters Association of Canada. These read as follows:

a A married woman shall be granted credit in her own name if her credit qualifications, including her earnings or separate property, are such that a man possessing the same credit qualifications and property or earnings would receive credit.

b An unmarried woman shall be granted credit if her credit qualifications, property or earnings are such that a man possessing the same credit qualifications, property or earnings would receive credit.

Further, credit granters shall continue to hold to the following principles:

- to hold women and men to same standards in determining credit worthiness;
- to extend credit to a creditworthy married woman in her own name and not insist on dealing with the husband;
- to refrain from refusing to extend credit to a newly separated, divorced, or widowed woman solely because of a change in her marital status;
- to apply the same standards to credit extensions including mortgage transactions regardless of which spouse is the primary family supporter;
- to refrain from requesting or using information about family planning in evaluating credit applications;
- to observe the same standards in requiring credit data on the spouse regardless of the sex of the applicant;
- to consider a spouse's income, if necessary, when a couple applies for credit;
- to consider alimony and child support as a source of income.

In addition:

- Change in marital status shall not be the sole consideration in requiring re-application for previously issued credit cards or the re-negotiation of the existing credit arrangements.

- In appraising a woman's creditworthiness, consider her credit history when single or married.
- An individual's credit rating shall not be altered solely on the basis of the credit rating of the spouse.
- A credit reporting agency shall upon request of a spouse keep a separate file on the husband and wife.

Slightly different "Equal Credit Opportunity Guidelines" have been adopted in Nova Scotia and British Columbia. Their Policy Statement includes a provision covering the activities of credit bureaus. The right of women to receive credit on an equal basis with men is further protected in Nova Scotia under the Consumer Protection Act.

a No married woman shall be denied credit in her own name if her uncommingled earnings or separate property are such that a man possessing the same amount of property or earnings would receive credit.

b No unmarried woman shall be denied credit if her property or earnings are such that a man possessing the same amount of property or earnings would receive credit.

c A credit reporting agency shall, upon the request of a married person, identify within the report delivered by the agency both the credit history of each spouse and of their joint accounts, if such information is on file with the credit reporting agency.

However, as the Canadian Human Rights Commission study notes, the large number of bank branches (7,400 across Canada) creates a communication problem. Even if the head offices of banks are aware of the existence of the "Credit Granting Guidelines" and of their responsibility not to discriminate on the grounds of sex or marital status, the dissemination to the branches of bank policy in these matters and its subsequent application may be uneven.

## ARTICLE 13(c)

> States Parties shall take all appropriate measures to eliminate discrimination against women in other areas of economic and social life in order to ensure on a basis of equality of men and women, the same rights, in particular:
>
> (c) The right to participate in recreational activities, sports and all aspects of cultural life.

The provision and organization of recreational activities is not, for the most part, governed by statute in Canada. Most governments have, however, established programs and agencies to support citizen participation in sports and cultural life. Whether or not women are treated on a basis of equality with men in terms of government support of recreational activities is a moot point. As in many other instances cited in this report, discriminatory practices arise from the persistence of outmoded attitudes about what are suitable and proper roles for women.

### 1 FEDERAL GOVERNMENT INITIATIVES RELATING TO WOMEN AND CULTURAL LIFE

A recent review of federal cultural policy indicates that women do not enjoy equitable access to cultural activities in Canada. In 1980, the Minister of Communications appointed an independent committee to review all of the federal government's major cultural programs. In its first report, the Committee noted that "At almost every one of the (eighteen) public hearings, we heard from individuals and from groups about the even more difficult position of women artists, and the loss to Canadian cultural life that this situation creates".* The Report of the Committee, published in 1982, drew special attention"... to the fact that the present inequitable access of women to all levels of responsibility and activity in the cultural sector deprives Canadian society as a whole of a vital dimension of human and artistic experience".** The Committee's 101 recommendations, none of which addresses the issue of women's equal participation in cultural life, are currently being reviewed by the government.

#### a Studio D, National Film Board of Canada (NFB)

Founded in 1974, Studio D is part of the National Film Board's English-language production branch. Its objective is to provide a forum for women filmmakers in order to bring a woman's perspective to the production of films. In addition, the unit provides "some of the practical training necessary for women to move into traditionally male filmmaking occupations and to give women the opportunity to develop and express themselves through film"*.

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* Federal Cultural Policy Review Committee, Summary of Briefs and Hearings (Ottawa: Department of Communications, 1982) p. 20.

** Federal Cultural Policy Review Committee, Report (Ottawa: Department of Communications, 1982) p. 9.

Studio D also participates in the Federal Women's Film Program. This is an interdepartmental committee providing input on the priorities and usefulness of certain film programs, as well as financial support to Studio D for the production of films relating to a variety of women's issues.

b "Women and the Arts" Seminars: Department of Communications

The Research and Statistics Directorate, Arts and Culture Sector of the Department of Communications organized, in September 1982, a series of 7 two-hour seminars designed to acquaint federal government and agency officials with the current status of women in music, theatre, dance, writing, broadcasting and advertising, visual arts and film in Canada.

c Canadian Women Filmmakers: Public Archives Canada

A series of 85 films by some 80 women film directors, the series was presented as part of the Public Archives Canada exhibition "The Widening Sphere: Women in Canada, 1870-1940". (See text under Article 7(c)). The series presented the works in a programme of 12 screenings.

## 2 WOMEN AND SPORT

The participation of women in organized sports activities is one area of recreational activity in which unequal treatment of women has been brought to public attention. There have been a number of cases accepted by provincial human rights commissions which have tested human rights statutes as they apply to female participation in male team sports. The cases so far resolved have shown only that the courts agree with the sports bodies' defence that they are private organizations and therefore not bound by legislation proscribing discrimination in the use of public services and facilities. A recent study comments on the litigation as follows:

> The main value of human rights cases, in our opinion, is to bring public interest, concern and pressure to bear on eliminating unequal, sex-discriminatory sport and recreation programs. Many parents and coaches no longer

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* National Film Board of Canada, Beyond the Image: A Guide to Films About Women and Change (Montreal: National Film Board of Canada, 1981), p.1.

> blithely accept the lack of sport opportunities for their daughters. More importantly, sport and recreation agencies and organizations, most of whom are dependent on public facilities and funds, can no longer sustain the argument that they have no moral or legal obligation to provide equal opportunities for both sexes.*

### a Federal Initiatives

The federal government has shown an increasing commitment towards providing equal opportunity for women with regard to the participation of women in sport.

- Fitness and Amateur Sport Women's Program, Health and Welfare Canada

The Women's Program was formalized in 1980. Funding priority was placed on projects which would increase the number of women in leadership positions in the field. Since then the overall objective of improving the status of women in physical activity has been supplemented by the following aims:

- establishing and maintaining the Women's Program as a focal point for women and physical activity concerns within the federal government;
- providing leadership for the development of policy in the area of women and physical activity within the federal government and vis-à-vis client organizations of Fitness and Amateur Sport Branch;
- undertaking programs which will improve the status of women in fitness and amateur sport.

The Women's Program recently undertook a national survey to determine the nature and extent of female leadership in the area of fitness and amateur sport in Canada. An analysis was made of female participation in the work of federal and provincial government departments responsible for fitness and amateur sport; in federal and provincial sport and recreation associations; in college and university departments of physical education and athletics; and in the National Coading Certification Program. The report of the survey notes that:

> ...women play a major role in carrying out the work of governments, associations and

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* M. Ann Hall and Dorothy A. Richardson, Fair Ball: Towards Sex Equality in Canadian Sport (Ottawa: Canadian Advisory Council on the Status of Women, 1982) p.28.

post-secondary institutions in the sport and recreation field, but tend to be seriously under-represented in the decision-making process.*

### b Provincial Initiatives

Sports activities within the provincial/territorial spheres of responsibility do not, apart from those resulting in complaints to human rights commissions, appear to distinguish inequitably between the participation of women and men.**

#### i British Columbia

Under the British Columbia Human Rights Code, women are guaranteed the right to participate in recreational, cultural and sports activities. The only exception lies in areas which have been specifically designated as male activities for fraternal benefit, and where the organization is non-profit. Females can similarly have all-female organizations.

Where funds are distributed through lottery grants, the provincial Recreation and Sport Branch, or Cultural Services Branch, no discrimination on the basis of sex exists.

#### ii Ontario

In Ontario the Sports and Fitness Division of the Ministry of Tourism and Recreation is presently collecting statistics on female fitness in order to identify and assess the special needs women may have. Awareness campaigns on the subject of fitness embody specific material directed at women, particularly young mothers. The Ministry also works with the Ministry of Education to develop initiatives for improved fitness, especially at the elementary school level.

In addition, on April 8, 1982, a Task Force to study the equal treatment of the sexes in athletic activities was established by Order-in-Council.

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* Fitness and Amateur Sport Women's Program, Women in Sport Leadership: Summary of a National Survey (Ottawa: Fitness and Amateur Sport, 1982) p. 9.

** For the situation in Quebec refer to pages 39-41 of Appendix II, the Report of Québec.

### iii New Brunswick

All funding criteria in the New Brunswick Department of Youth, Recreation and Cultural Resources, apply equally to both sexes - individuals as well as organizations. The New Brunswick Sports Branch, in particular, provides equal opportunities to programs and funding such as: assistance to all provincial championships, national or Atlantic competitions, high performance athlete/coach development, officiating development, etc.

## DOCUMENTATION

### CANADA

Canadian Advisory Council on the Status of Women

Fair Ball: Towards Equality in Canadian Sport. M. Ann Hall and Dorothy A. Richardson. Ottawa: Canadian Advisory Council on the Status of Women. 1982.

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Report of the Federal Cultural Policy Review Committee. Ottawa: Department of Communications. 1982.

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Fitness and Amateur Sport Canada

Canadian Directory of Women in Sport Leadership. Ottawa: Supply and Services Canada. 1982.

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Women in Sport Leadership: Summary of a National Survey. Ottawa: Fitness and Amateur Sport. 1982.

National Film Board of Canada

Beyond the Image: A Guide to Films about Women and Change. Ottawa: National Film Board of Canada. 1981.

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Canadian Women Filmmakers: Dossier and Programme. Ottawa: Public Archives Canada/National Film, Television and Sound Archives. 1982.

## ARTICLE 14

1. States Parties shall take into account the particular problems faced by rural women and the significant roles which they play in the economic survival of their families, including their work in the non-monetized sectors of the economy, and shall take all appropriate measures to ensure the application of the provisions of this Convention to women in rural areas.

2. States Parties shall take all appropriate measures to eliminate discrimination against women in rural areas in order to ensure, on a basis of equality of men and women, that they participate in and benefit from rural development and, in particular, shall ensure to such women the right:

(a) To participate in the elaboration and implementation of development planning at all levels;

(b) To have access to adequate health care facilities, including information, counselling and services in family planning;

(c) To benefit directly from social security programmes;

(d) To obtain all types of training and education, formal and non-formal, including that relating to functional literacy, as well as the benefit of all community and extension services, inter alia, in order to increase their technical proficiency;

(e) To organize self-help groups and co-operatives in order to obtain equal access to economic opportunities through employment or self-employment;

(f) To participate in all community activities;

(g) To have access to agricultural credit and loans, marketing facilities, appropriate technology and equal treatment in land and agrarian reform as well as in land resettlement schemes;

(h) To enjoy adequate living conditions, particularly in relation to housing, sanitation, electricity and water supply, transport and communications.

Women living in rural areas enjoy the same rights as men in rural areas. Legislation in Canada does not distinguish between Canadians living in rural areas and those living in urban/suburban conditions. Thus the legal rights of women in regard to education, health care and social security are the same as those of other women in Canada as set out in the texts under Articles 10, 11 and 12.

As regards status Indians on reserves, (both women and men), the federal government provides (on a basis of equality of access) special programs designed to meet a wide range of concerns, including social, economic and educational needs specific to the different reserves. However, as a result of the indirect constraints inherent in the socialization process, the opportunities presented by these programs are not necessarily pursued on an equal basis.

Federal government departments/agencies recognize that special efforts are necessary to overcome the factor of isolation in rural areas. The following initiatives are examples of measures taken.

.Canada Employment and Immigration Commission

The Commission has approximately 300 itinerant points of service in rural and isolated areas. Outreach projects also link isolated areas to regular Canada Employment Centres.

Further, a number of job creation programs provide significant benefits to rural women, such as training or job experience in preparation for entry into the labour market, pre-placement and post-placement counselling, as well as job placement.

.Health and Welfare Canada

The Department of National Health and Welfare is committed to support and encouragement of voluntary action in the fields of health and social services. Particular attention is given to issues affecting women and women's organizations. Among the projects supported by the National Welfare Grants Program is the Women's Self-Help and Advocacy Network, located in the northern part of Vancouver Island. It has been developing and testing training packages to enable women in rural communities to act on their own behalf. Additionally, this project will demonstrate the viability of a women's service network as a means of combatting the isolation and stress which affects rural women and their families in resource-based, single-industry towns.

The Health Promotion Contribution Program has also provided funding for a variety of women's projects including one entitled "Rural Women and Mental Health: Toward Deeper Understanding and Positive Action" in London, Ontario.

In 1979, the Income Tax Act was amended to allow the owner of a small, unincorporated, family business to deduct the salary paid to a spouse from the operating expenses of the business. Effective for 1980 and subsequent taxation years the amendment greatly benefits women in (unincorporated) family farms.

In regard to financial credit, there are some federal legislative measures of special relevance to rural women. The Farm Credit Act provides for the extension of long term mortgage credit by the Farm Credit Corporation (a Crown agency) to farmers where the proceeds of the loan will be used for such purposes as acquiring land, purchasing farm machinery or paying operating costs and the costs of maintaining the farmer and his family. Until recently, s.2(2)(f) of the Regulations under the Act provided that an individual and his spouse constituted a single farming unit rather than a partnership. This made a significant difference in that the maximum loan allowable to a single farming unit is $200,000, whereas the maximum available to a partnership is $400,000. However, as a result of a complaint in 1981 to the Canadian Human Rights Commission by a woman who alleged that this regulation constituted discrimination on the basis of marital status, the offending regulation has been revoked.

The stated purpose of the Farm Improvement Loans Act is "to encourage the provision of intermediate term and short term credit to farmers for the improvement and development of farms, and for the improvement of living conditions thereon". Thus it relates both to paragraphs (g) and (h) of Article 14.

## ARTICLE 15.1

> States Parties shall accord to women equality with men before the law.

Section 1(b) of the Canadian Bill of Rights provides for equality before the law without discrimination on the basis of sex, as does s.15(1) of the Canadian Charter of Rights and Freedoms (which, as noted above, comes into effect in April of 1985). Section 28 of the Charter, already in effect, guarantees the rights and freedoms in it equally to men and women.

In addition, provincial and federal human rights legislation guarantees the equality of women in certain specified fields such as employment, accommodation etc. And, as noted in the text under Article 2(b), in some jurisdictions (Alberta, Saskatchewan, Ontario, Quebec, Prince Edward Island) the human rights acts over-ride any inconsistent legislation. The Alberta, Saskatchewan, Ontario and Quebec acts provide for the withholding of such primacy in cases where statutes contain a clause providing for application notwithstanding the human rights legislation.

The Alberta Bill of Rights ensures the equality of women before the law in Alberta.

## ARTICLE 15.2

> States Parties shall accord to women, in civil matters, a legal capacity identical to that of men and the same opportunities to exercise that capacity. They shall in particular give women equal rights to conclude contracts and to administer property and treat them equally in all stages of procedure in courts and tribunals.

In certain of the provinces/territories, some restriction of the legal capacity of married women still remains. Such discrimination on the basis of marital status has its origins in legal reforms aimed at protecting the property rights of female spouses through enactment of Married Women's (Persons') Property Acts. Legislation of this kind, originally adopted by all Canadian jurisdictions, grants to married women the same rights as are held by unmarried women with respect to the acquisition, ownership and disposition of property.

But the effect of the legal doctrine of the "unity of spouses" which holds that legal personalities of husband and wife are fused into one, remains in force with respect to other rights in some provinces. For example, only male spouses may bring an action for alienation of affection and/or loss of consortium. The matter of domicile is also affected (see Article 15.4 following). And the Rules of Court have only recently been changed in some Canadian jurisdictions to permit a married woman to act as guardian ad litem or next friend in all court cases. The rule was a necessary consequence of the fact that a married woman lacked capacity to sue and be sued at common law.

A recent study by the Law Reform Commission of Saskatchewan examined the discrimination which arises from the dependent status of married women. After studying the provinces' Married Persons' Property Act, related legislation and common law rules which share the assumption, the Commission recommended the adoption of an Equality of Status of Married Persons Act on the basis that the provisions of the former act now serve no valid social or legal purpose. The adoption of such a measure would "complete the reform begun by married women's property legislation by abolishing the concept of unity of personality, and the dependent status it implied".*

Manitoba introduced such legislation in 1982, with the enactment of the Equality of Status Act.

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* Law Reform Commission of Saskatchewan, Proposals for an Equality of Status of Married Persons Act: Report to the Attorney General (Saskatoon: Law Reform Commission of Saskatchewan, 1982) p.8.

A similar goal has been accomplished in Ontario and Prince Edward Island by including a provision within the body of their family law reform legislation stating that a married man and a married woman have "a legal personality that is independent, separate and distinct" from that of each other.* For added clarity, a subsection of the same provision states that "a married person has and shall be accorded legal capacity for all purposes and in all respects as if such persons were an unmarried person."** Both jurisdictions have abolished any common law or statutory right to dower; and established equal domiciliary rights for women and men within the tests of the family law reform statutes.

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* Family Law Reform Act, R.S.O. 1980, c.152.

** Family Law Reform Act, S.P.E.I. 1978, C.6, s.60(2).

ARTICLE 15.3

> States Parties agree that all contract and all other private instruments of any kind with a legal effect which is directed at restricting the legal capacity of women shall be deemed null and void.

Under Canadian law, it is possible that any private contract containing a clause limiting the legal capacity of a woman might be held to be void on grounds of public policy.

If a person in Canada enters an agreement which includes a clause involving discrimination on the basis of sex - for example, if he or she were party to a collective agreement that authorized dismissals on the basis of sex - that person would be able to file a complaint with the relevant Human Rights Commission to avoid the effect of such a clause. As has been pointed out in several cases on this matter, a person cannot contract out of the provisions of human rights legislation, as this would deprive it of remedial effect.

Thus it may be concluded that the provisions of the relevant human rights legislation could be invoked to render of no effect clauses in a contract restricting the legal capacity of women, if the contract related to matters of employment or the provision of services, facilities or accommodation available to the general public, or to the provision of commercial premises or residential accommodation.

The Saskatchewan Human Rights Code prohibits the inclusion in contracts offered to the public, of terms and conditions which are discriminatory on the basis of sex and marital status (amongst other grounds).

## ARTICLE 15.4

> States Parties shall accord to men and women the same rights with regard to the law relating to the movement of persons and the freedom to choose their residence and domicile.

The right to enter, remain in and leave Canada as well as the right to move to and take up residence in any province is guaranteed under section 6 of the Canadian Charter of Rights and Freedoms.

> 6.(1) Every citizen of Canada has the right to enter, remain in and leave Canada.
>
> (2) Every citizen of Canada and every person who has the status of a permanent resident of Canada has the right
>
> (a) to move to and take up residence in any province; and
>
> (b) to pursue the gaining of a livelihood in any province.

It will be recalled that by virtue of section 28 of the Charter, this right is guaranteed equally to women and men.

The question with regard to free choice of domicile is rather more complex. Domicile is the legal concept which determines a person's permanent home (as opposed to residence which is the place where a person lives). "It is the law of a person's domicile that determines his civil status and capacity and therefore most of his personal rights and obligations. An individual's domicile also determines the jurisdiction of the courts ...".* Except where otherwise provided, the domicile of a person in Canada is determined by the family laws applying to that person. Those laws, as originally adopted in Canada from the laws of England, provide that a wife's domicile (as well as that of her minor children), is that of her husband.

In the provinces of Ontario and Prince Edward Island the issue of a married woman's domicile has been clarified under provision of the family law reform legislation.

> The same rules shall be applied to determine the domicile of a married woman as for a married man.**

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* Royal Commission on the Status of Women in Canada, Report (Ottawa: Information Canada, 1970) p.236.

** Family Law Reform Act, R.S.O. 1980, c.152.
Family Law Reform Act, S.P.E.I. 1978, c.6, s.60(3)(c).

The situation in Quebec with regard to domicile is dealt with in Appendix II, the Report of Quebec, p.46.

Problems relating to the domicile of women may also remain in areas of provincial jurisdiction, particularly in relation to the annulment of voidable marriages and succession laws. However, most provinces have taken, or are in the process of taking, steps to remove any inequities in this area. For example, the Manitoba Law Reform Commission released a Report with respect to the law of domicile in Manitoba on 1 December, 1982, recommending several changes to the existing common law. These include changes with respect to the domicile of a married woman and the domicile of children. The Government of Manitoba is presently studying the recommendations and is proposing to introduce legislation creating independent spousal domiciles.

For the most part, matters within federal jurisdiction which require a determination of a woman's domicile are governed by statutes that define "domicile" in a non-discriminatory manner. Thus, s.6 of the Divorce Act says that the domicile of a married woman "shall be determined as if she were unmarried and, if she is a minor, as if she had attained her majority".

There is one matter within federal jurisdiction - the annulment of marriages - in which there is no statute, and so the common law definition of "domicile" remains the operative one. Thus, in all provinces except Québec, the domicile of a married woman remains that of her husband.

## ARTICLE 16.1

> States Parties shall take all appropriate measures to eliminate discrimination against women in all matters relating to marriage and family relations ...:

Jurisdiction over family law in Canada rests primarily with the provincial/territorial level of government. However, under s.91(26) of the Constitution Act, 1867, the federal Parliament may pass laws relating to marriage and divorce. Jurisdiction over property and civil rights (s. 92(13)) and the solemnization of marriage (s. 92(12)) confers legislative power in these areas on provincial legislatures.

The constitutional division of power means that, where marriage is concerned, the provinces are responsible for the law respecting the formalities of marriage, including such matters as licences and parental or court consent that a marriage take place. The federal government is responsible for more fundamental matters, such as the capacity to marry. For example, the absolute minimum age to marry is a matter of capacity and comes within federal jurisdiction. On the other hand, the minimum age at which a licence to marry will be issued in a province is a matter of formalities and comes within provincial jurisdiction.

Some degree of statutory recognition is given to relationships between individuals who live together without marrying. Relationships of this kind are popularly called common law relationships or common law marriages. The degree of recognition depends on the length of the relationship and/or the presence of children. Common law relationships may give rise to support obligations and to the right to claim certain social benefits.

The law of divorce is set out in the federal Divorce Act, enacted in 1968. Prior to the enactment of that statute, the divorce laws adopted from England in the nineteenth century applied to Canadian divorces. And because the provinces have jurisdiction over property and civil rights, they may legislate concerning the division of assets upon dissolution of marriage. Thus, the grounds for divorce are to be found in federal law whereas the law respecting the division of family property on divorce is found in provincial statutes.

The power to legislate in matters relating to children and their welfare is also found in s. 92(13) of the Constitution Act, 1867, the section providing that provinces may make laws relating to "property and civil rights in the province". On the same grounds, provincial jurisdiction further includes the right to legislate in regard to adoption, child protection, guardianship of the person and property of children and custody of children before divorce. Custody after divorce is covered by the federal Divorce Act.

Family law in Canada has undergone broad changes in the last decade. It has been a frequent subject of discussion between the federal and provincial/territorial governments up to and including the level of the First Ministers' Conference. It may be expected that the ongoing process of constitutional reform will ensure that family law remains a high priority for reorganization.

## DOCUMENTATION

### CANADA

Canadian Advisory Council on the Status of Women

Outline of Matrimonial Property Laws in Canada. Ottawa, 1982.

### MANITOBA

Department of the Attorney-General:

A Report on the State of Family Law in Manitoba: Recommendations for Change. Robert Carr. Winnipeg, 1982.

Family Law in Manitoba. Winnipeg, 1981.

### SASKATCHEWAN

Law Reform Commission of Saskatchewan. Proposals for an Equality of Status of Married Persons Act. Saskatoon, 1982.

Proposals on Custody, Parental Guardianship, and the Civil Rights of Minors. Saskatoon, 1981.

ARTICLE 16.1 (a)

> States Parties ... shall ensure, on a basis of equality of men and women:
> (a) The same right to enter into marriage;

The constitutional division of power referred to above means that the provinces are responsible for the law respecting the formalities of marriage, including such matters as licences and parental or court consent that a marriage take place when the parties are minors. The federal government is responsible only for the more fundamental legal aspects of marriage.

The laws governing marriage at the provincial/territorial level are generally cited as Marriage Acts/Ordinances. The long title often reflects the purpose, an Act Respecting the Solemnization of Marriage. Both civil and/or religious forms of marriage are permitted. The acts authorize the registration of persons permitted to officiate at marriages; the issuing of marriage licenses and the registration of marriages. The only person who may be registered to carry out the religious form of marriage is a "clergyman", that is a person authorized by a religious body to solemnize marriages according to its rites and usages. Since some religions in Canada do not ordain women, it is unlikely that the right of women to solemnize marriages is equal to the right of men to do so.

The right to marry is subject to certain constraints amongst them consanguinity or affinity; legal impediments; mental capacity; and age. The first three apply equally to men and women.

- Consanguinity/Affinity

  Canadian law presently specifies some twenty instances of prohibited affinity and consanguinity. These are the same for women and men allowing for sex differentiation. For example, a man may not marry his son's wife and a woman may not marry her daughter's husband. These prohibited degrees may only be changed by federal statute.

- Legal Impediments

  A prior marriage not lawfully dissolved is a bar to entering marriage. In this context the Criminal Code prohibits bigamy (ss.254-255), polygamy (s.257), feigned marriage (s.256) and unlawful solemnization of marriage (ss.258-259).

- Mental Capacity

  Mentally disordered, retarded or ill persons may either not be issued with a marriage license or be issued a license only after a certificate of mental capacity has been presented.

- Age

  Except for Quebec law, the age of capacity to marry stems from pre-existing English law, and, fixes an earlier age for females (12 years) than for males (14 years). However provincial laws relating to solemnization of marriage treat women and men equally under the provisions governing the age at which licenses may be issued. The specified age varies among provinces/territories (see Article 16.2 following) but is the same for females as for males. Exceptions may be made where the female contracting party is either pregnant or the mother of a living child. While it appears that women and men are treated differently with regard to age under federal law, in practice the distinction is minimized by the provincial provisions relating to the age for issuing marriage licenses.

## PRINCIPAL STATUTES

### CANADA

Marriage Act, R.S.C. 1970, c. 176, ss.2-3.

### YUKON TERRITORY

Marriage Act, R.O.Y.T. 1971, c. M-3 as.am.

### NORTHWEST TERRITORIES

Marriage Ordinance, R.O.N.W.T. 1974, c. M.5 as am.

### BRITISH COLUMBIA

Marriage Act, R.S.B.C. 1979, c. 251, ss.24, 25, 26.

### ALBERTA

Marriage Act, R.S.A. 1980, c. M-6.
Vital Statistics Act, R.S.A. 1980, c. V-4.

### SASKATCHEWAN

Marriage Act, R.S.S. 1978, c. M-4, ss.12-15, 29-31, 36-39, 54.

### MANITOBA

Marriage Act, R.S.M. 1970, c. M-50, ss.8, 9, 21, 22, 24, 24.1, 25, Schedule B
Presumption of Death Act, R.S.M. 1970, c. P-120, s.2.

### ONTARIO

Marriage Act, R.S.O. 1980, c. 256, ss. 5, 6

### QUEBEC

Civil Code of Lower Canada, s.115*

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* See Appendix II, the Report of Quebec pp. 46-47.

NOVA SCOTIA

Solemnization of Marriage Act, R.S.N.S. 1967, c. 287, ss.14-18.

PRINCE EDWARD ISLAND

Marriage Act, R.S.P.E.I. 1974, c. M-5

Vital Statistics Act, R.S.P.E.I. 1974, c. V-6.

NEWFOUNDLAND

Solemnization of Marriage Act, S.N. 1974, No. 81 as am. S.N. 1975-76, No. 48, ss.12, 15.

Registration (Vital Statistics) Act, R.S.N. 1970, c. 329, s.2.

## ARTICLE 16.1 (b)

> States Parties ... shall ensure, on a basis of equality of men and women:
> (b) The same right freely to choose a spouse and to enter marriage only with their free and full consent;

Women and men have the same right to freely choose a spouse with one major exception. Indian women, by reason of their loss of status as registered Indians upon marriage to a man who is not a registered Indian, may feel that their freedom of choice is constrained. (See Article 2(f) for discussion of the issue).

Free consent is an essential element of a valid marriage. The common law rule and the rule in the Quebec Civil Code is that there is no marriage where there is no consent. Thus a marriage will be void where there is lack of true consent. No real marriage is considered to have taken place and the status of the contracting parties is unchanged.

### PRINCIPAL STATUTES

YUKON TERRITORY
Marriage Act, R.O.Y.T. 1971, c. M-3 as.am.

NORTHWEST TERRITORIES
Marriage Ordinance, R.O.N.W.T. 1974, c. M.5 as am.

BRITISH COLUMBIA
Marriage Act, R.S.B.C. 1979, c. 251, s.33.

ALBERTA
Marriage Act, R.S.A. 1980, c. M-6.

SASKATCHEWAN
Marriage Act, R.S.S. 1978, c. M-4, ss.54, 55, 57.

MANITOBA
Marriage Act, R.S.M. 1970, c. M-50, ss.7(6), 23.

ONTARIO
Marriage Act, R.S.O., 1980, c. 256.

QUEBEC
Civil Code of Lower Canada, s.116*

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* See Appendix II, the Report of Quebec p. 47.

NEW BRUNSWICK
Marriage Act, R.S.N.B. 1973, c. M-3.

NOVA SCOTIA
Solemnization of Marriage Act, R.N.S. 1967, c. 287, Form E.

PRINCE EDWARD ISLAND
Marriage Act, R.S.P.E.I. 1974, c. M-5

NEWFOUNDLAND
Solemnization of Marriage Act, S.N. 1974, No. 81, s.15.

## ARTICLE 16.1 (c)

> States Parties ... shall ensure, on a basis of equality of men and women:
> (c) The same rights and responsibilities during marriage and at its dissolution;

Through their control over property and civil rights, provinces are empowered to deal with rights and responsibilities during marriage and to regulate procedures relating to the separation of spouses when marriage breaks down. The federal government has sole jurisdiction over divorce and ancillary matters. And since the dissolution brought about by the death of a spouse involves property rights, that matter is also one within provincial jurisdiction.

In the past, the doctrine of unity of legal personality of husband and wife led to discrimination against married women because of their dependent status. The recent reforms in marital property legislation across Canada demonstrate commitment to the concept of marriage as a partnership of equals. The changes noted under Article 15 in respect of the legal capacity of married women reflect attempts to remove these barriers to equality. The inclusion of marital status as a proscribed ground of discrimination in human rights legislation throughout Canada is also an indication of the intention to change the dependent status of married women.

Because of the overlapping nature of the rights under consideration, the following subcategories have been developed solely for the purposes of clarity:

- rights and responsibilities during marriage;
- rights and responsibilities at the breakdown (separation and divorce) of marriage concentrating primarily on maintenance and support obligations; (the disposition of property is dealt with under Article 16.1 (h));
- rights upon death of a spouse.

### 1 RIGHTS AND RESPONSIBILITIES DURING MARRIAGE

Marriage is now generally recognized throughout Canada as a partnership of equals:

> ... Marriage is an institution of shared responsibilities and obligations between parties recognized as enjoying equal rights; ... (Manitoba Marital Property Act preamble).

The contribution of each spouse is equally valuable:

> The purpose of this Act ... is to recognize that child care, household management and

> financial provision are the joint and mutual responsibilities of spouses and that inherent in the marital relationship there is joint contribution, whether financial or otherwise, by the spouses to the assumption of these responsibilities ... (Saskatchewan Matrimonial Property Act, s. 20)

The notion of the equal value of the contributions made by the spouse who works outside the home and that of the spouse who manages the household is made even clearer under a provision of the Manitoba Family Maintenance Act which defines domestic service as a financial contribution.

> Any housekeeping, child care or other domestic service performed by a spouse for the family is a contribution to support and maintenance ... in the same way as if the spouse were devoting the time spent in performing that service in gainful employment and were contributing the earnings therefrom to support and maintenance. (s.5(2)).

The recognition of equal rights has its corollary in equal responsibilities. Every spouse has the obligation to provide support for her/himself and for the other spouse according to need and ability. Or as the Manitoba Family Maintenance Act states:

> Spouses have the mutual obligation to contribute reasonably to each other's support and maintenance. (s.2(1))

Such support includes, in Manitoba the right to an allowance for personal expenses and "the right to sole discretion free from all interference from the other spouse in the use of these amounts" (s.3). These rights are reinforced by the Criminal Code provision (s.197 (1)(b)) requiring the husband to provide the necessities of life.

While the rights and responsibilities of each spouse within marriage are now essentially equal throughout Canada, the effects of a change in marital status still fall more heavily on women due to the notion of dependent status which accompanies marriage. Although the Married Women's Property legislation enacted by all jurisdictions established the principle of separation of property between husband and wife, the common law doctrine of unity of legal personality still effectively restricts the rights of married women. For example, the right of a woman to domicile and family name in her own right have all been affected to varying degrees by marriage. Certain other principles operate to the detriment of married women only in some provinces/territories. Abolition of the dependent status of married women will require examination both of the Married Women's (Persons') Property statutes and of the common law principles on which they are based.

There can be little doubt that the remaining instances of unequal treatment will be eliminated as a result of the need to comply with the standards of the Canadian Charter of Rights and Freedoms. But because marital status is not included as an explicitly proscribed ground of discrimination in that document, it is rather more difficult to predict whether differences in status between married and unmarried persons will be eliminated. This issue is addressed by a recent report of the Law Reform Commission of Saskatchewan. The Commission proposes the enactment of an Equality of Status of Married Persons Act which would establish the equality of status of married persons both with one another and with unmarried persons.

## 2 MAINTENANCE AND SUPPORT OBLIGATIONS AT MARRIAGE BREAKDOWN

As noted earlier, spouses who separate (either by agreement or through a court order) are still legally married. The process of determining maintenance and support obligations is therefore governed by provincial/territorial legislation. The maintenance and support obligations to be determined after divorce, on the other hand, may fall within federal jurisdiction, under the Divorce Act.

It is now generally accepted that marriage breakdown does not automatically create a right to maintenance. It is the responsibility of each spouse to try to become financially independent of the other spouse by taking reasonable steps to become self-supporting. Both spouses are equally responsible for supporting and maintaining their dependent children under the age of 18.

Maintenance provisions under the Divorce Act require that consideration be given to the concept of fault (amongst other factors) when orders are made.

While the maintenance provisions of most provinces/territories are to be found in Family Maintenance, Family Services or Family Relations acts, some jurisdictions have still to replace their predecessor legislation, the Deserted Wives and Children's Maintenance acts in which maintenance obligations extend to husbands but not to wives.

Courts enforce maintenance orders and may impose penalties for non-payment of maintenance. Reciprocal Enforcement of Maintenance Orders acts ensure that maintenance orders issued in one jurisdiction may be enforced in all others.

The fact that the great majority of maintenance orders are payable by the male spouse to the female spouse is a reflection not only of the custom of assigning custody of children to mothers but also of an occupational structure in which the average earnings of men are greater than those of women.

## 3 RIGHTS UPON DEATH OF A SPOUSE

As with most other areas of family law in Canada, legislation governing inheritance rights is in a state of flux. Amongst the recently enacted matrimonial property statutes, only those of Saskatchewan, Québec, New Brunswick, Nova Scotia and Newfoundland provide for the equal sharing of assets after the death of a spouse. But because the right of dower (or the equivalent homestead rights in the Western provinces) is still recognized in a few Canadian jurisdictions, widows automatically have the right to a certain interest in their deceased husband's property.

In cases of intestate succession some seven provincial statutes (generally known as Devolution of Estates or Intestate Succession acts) entitle widows to a fixed amount, the residue being divided between herself and her children. In the Atlantic provinces, provision is made for the intestate's next-of-kin to share in the estate with the spouse if there are no children.

Where a person has made a will which does not provide adequately for the surviving dependents, in all provinces/territories (except Québec) the survivors may apply to the costs to obtain a share of the estate. Such acts are usually called Dependant's Relief or Testator's Family Maintenance acts.

The differences in treatment in these cases is not so much a matter of sex discrimination as it is a matter resulting from the different provisions made by provincial/territorial governments. Thus the assets due to a woman at the dissolution of marriage may vary either according to whether the cause of dissolution is death or divorce or according to the couple's place of residence.

## PRINCIPAL STATUTES

### CANADA

Divorce Act, R.S.C. 1970, c. D-8.

### YUKON TERRITORY

Matrimonial Property and Family Support Act, S.Y.T. 1979 (2nd), c. 11 and S.Y.T. 1980 (2nd), c.15, ss.6(1) and 30.2.

### NORTHWEST TERRITORIES

Dependents Relief Ordinance, R.O.N.W.T. 1974, c. D-4.

Domestic Relations Ordinance, R.O.N.W.T. 1974, c. D-9 as am.

Infants Ordinance, R.O.N.W.T. 1974, c. I-1.

Intestate Succession Ordinance, R.O.N.W.T. 1974, c. I-4.

Maintenance Ordinance, R.O.N.W.T. 1974, c. M-2.

Maintenance Orders Enforcement Ordinance, R.O.N.W.T. 1974, c. M-3 as am.

Maintenance Orders (Facilities for Enforcement) Ordinance, R.O.N.W.T. 1974, c. M-4 as am.

Married Women's Property Ordinance, R.O.N.W.T. 1974, c. M-6.

Matrimonial Property Ordinance, R.O.N.W.T. 1974, c. M-7 as am. (not fully proclaimed).

Public Trustee Ordinance, R.O.N.W.T. 1974, c. P-16.

Seduction Ordinance, R.O.N.W.T. 1974, c. S-12 as am.

Survivorship Ordinance, R.O.N.W.T. 1974, c. S-6.

Wills Ordinance, R.O.N.W.T. 1974, c. W-3.

## BRITISH COLUMBIA

Family Relations Act, R.S.B.C. 1979, c. 121, ss.43, 56, 57, 70.

Land (Wife Protection) Act, R.S.B.C. 1979, c. 223, ss.2, 3, 8.

Estate Administration Act, R.S.B.C. 1979, c. 1114, ss.96, 107, 108, 111.

Wills Variation Act, R.S.B.C. 1979, c. 425.

## ALBERTA

Alimony Orders Enforcement Act, R.S.A. 1980, c. A-40.

Assured Income for the Severely Handicapped Act, R.S.A. 1980, c. A-48.

Dependent Adults Act, R.S.A. 1980, c. D-32.

Domestic Relations Act, R.S.A. 1980, c. D-37.

Family Relief Act, R.S.A. 1980, c. F-2.

Intestate Succession Act, R.S.A. 1980, c. I-9.

Maintenance Order Act, R.S.A. 1980, c. M-1.

Married Women's Act, R.S.A. 1980, c. M-7.

Social Development Act, R.S.A. 1980, c. S-16.

Vital Statistics Act, R.S.A. 1980, c. V-4.

Wills Act, R.S.A. 1980, c. W-11.

## SASKATCHEWAN

Deserted Wives' and Childrens' Maintenance Act, R.S.S. 1978, c. D-26, ss.2-5, 8, 10, 11, 14, 21, 31, 34, 35.

Matrimonial Property Act, R.S.S. 1978, c. M-6.1, ss.3-8, 10, 12-14, 16, 18-32, 35-43, 50-52.

Married Persons' Property Act, R.S.S. 1978, c. M-6, ss.3-6, 8-16, 20, 21, 23, 24.

Queen's Bench Act, R.S.S. 1978, c. Q-1, ss.24-40.

Homesteads Act, R.S.S. 1978, c. H-5, ss. 3-5, 8, 9, 12, 19.

Dependants' Relief Act, R.S.S. 1978, c. D-25, ss.4, 9.

Intestate Succession Act, R.S.S. 1978, c. I-13, ss.3-6, 14, 15, 18.

Reciprocal Enforcement of Maintenance Orders Act, R.S.S. 1978, c. R-4, ss.3-9.

Mental Health Act, R.S.S. 1978, c. M-13, ss.10, 11, 15, 28, 31, 33, 35, 37, 50-52, 54.

Mentally Disordered Persons Act, R.S.S. 1978, c. M-14, ss.5, 14, 16, 25.

Administration of Estates of Mentally Disordered Persons Act, R.S.S. 1978, c. A-5, ss.7, 8, 21.

Vital Statistics Act, R.S.S. 1978, c. V-7, ss.11-13.

Wills Act, R.S.S. 1978, c. W-14, ss.5, 12, 13, 15, 32.

Absentee Act, R.S.S. 1978, c. A-3, ss.2, 3.

Pension Benefits Act, R.S.S. 1978, c. P-6, ss.16.1, 19.

Public Health Act, R.S.S. 1978, c. P-37, s.90.

Attachment of Debts Act, R.S.S. 1978, c. A-32, ss.24-32.

Land Titles Act, R.S.S. 1978, c. L-5, ss.130, 245-247.

Unified Family Court Act R.S.S. 1978 c. U-1.1 (Supp.), s.18.

## MANITOBA

Family Maintenance Act, S.M. 1978, c. 25, ss.2, 3, 4, 5, 6, 7, 8, 10, 24.1-31.6.

Garnishment Act, R.S.M. 1970, c. G-20, ss.14, 15.

Married Women's Property Act, R.S.M. 1970, c. M-70, ss.3, 6, 7(2).

Mental Health Act, R.S.M. 1970, c. M-110, ss.18(3), 67, 68.

Provincial Judges Act, S.M. 1972, c. 61, s.23.

Queen's Bench Act, R.S.M. 1954, c. 52, ss. 52, 52.1, 52.2.

Reciprocal Enforcement of Maintenance Orders Act, R.S.M. 1970, c. S-160, s.2(1) (c).

## ONTARIO

Family Law Reform Act, R.S.O. 1980, c. 152, ss.1, 3, 4, 6, 8, 11, 12, 14-19, 38-40, 50-71.

Succession Law Reform Act, R.S.O. 1980, c. 488, ss.44-49, 57-63.

Vital Statistics Act, R.S.O. 1980 c. 524 ss. 6, 26, 57-63, 71-71.

## QUEBEC

Civil Code of Quebec ss. 441-524, 633-658.

Charter of Human Rights and Freedoms, R.S.Q. c. c-12, s.47.*

## NEW BRUNSWICK

Change of Name Act, R.S.N.B. 1973, c. C-2.

Child and Family Services and Family Relations Act, S.N.B., Vol. II c. C-2.1.

Devolution of Estates Act, R.S.N.B. 1973, c. D-9.

Marital Property Act, S.N.B., Vol. IV, c. M-11.

Married Women's Property Act, R.S.N.B. 1973, c. M-4.

Reciprocal Enforcement of Maintenance Orders Act, R.S.N.B. 1973, c. R-4.

Testator's Family Maintenance Act, R.S.N.B. 1973, c. T-4.

Vital Statistics Act, S.N.B. Vol.VI, c. V-3.

Wills Act, R.S.N.B. 1973, c. W-9.

## NOVA SCOTIA

Alimony Act, R.S.N.S. 1967, c. 7, s.1

Matrimonial Property Act, S.N.S. 1980, c. 9, ss.8, 12-13, 21.

Testator's Family Maintenance Act, R.S.N.S. 1967, c. 303, s.2.

## PRINCE EDWARD ISLAND

Dependants of a Deceased Person Relief Act, R.S.P.E.I. 1974, c. D-6.

Family Law Reform Act, S.P.E.I. 1978, c. F-2.1.

Reciprocal Enforcement of Custody Orders Act, R.S.P.E.I. 1974, c. R-8.

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* See Appendix II, the Report of Quebec, pp. 46-47.

NEWFOUNDLAND

Maintenance Act, R.S.N. 1970, c. 223, s.5-6.

Matrimonial Property Act, S.N. 1979, c. 32, s.20.

Family Relief Act, R.S.N. 1970, c. 124, s.3.

Reciprocal Enforcement of Judgments Act, R.S.N. 1970, c. 327, s.5.

Intestate Succession Act, R.S.N. 1970, c. 183, s.13.

## ARTICLE 16.1 (d)

> States Parties ... shall ensure, on a basis of equality of men and women:
>
> (d) The same rights and responsibilities as parents, irrespective of their marital status, in matters relating to their children; in all cases the interests of the children shall be paramount;

The rights of parents are given statutory recognition in two major categories of legislation. The first deals with the custody and control of children and is usually embodied in Child Welfare acts. The second is concerned with maintaining the family as a unit (parent and dependent children) and usually finds expression in Family Relations or Family Services acts. In legislation of both categories, the following kinds of phrases place priority on the interests of the child:

- The court shall give first consideration to the welfare of the child ...;
- In the administration and interpretation of this Act the best interests of the child shall be the paramount consideration.

In general each parent has equal rights with respect to control and custody. The fact that the female parent is more frequently awarded custody of children upon the breakdown of marriage may be seen as a reflection of the prevailing social attitudes which attach greater value to family responsibilities for women than for men. Parents also have the right to choose the religion in which the child will be brought up. This right is given statutory recognition in Alberta and Saskatchewan.

The case for equality in respect of responsibilities is not as clear. Provincial/territorial Education Acts place on parents the duty of ensuring that school-age children attend school regularly, and provincial/territorial statutes outline the equal obligations of each parent to support and maintain their dependent children (and frequently vice versa). Support obligations are frequently spelled out in detail. In British Columbia for example:

> Each parent of a child is responsible and liable for the reasonable and necessary support and maintenance of the child, taking into account the
>
> (a) cost of reasonable residential accommodation, housekeeping, food, clothing, education, recreation and supervision of the child;
>
> (b) child's need for a stable and supportive environment; and

(c) financial circumstances and obligations of each person liable for the support and maintenance of the child. (Family Relations Act s. 56 (1)).

However, the relatively recent flux being experienced in family law in Canada, inevitably means that vestiges of outmoded social attitudes are still embodied in legislation. The following examples, while not exhaustive, are typical.

- Child Paternity and Support legislation designed to establish the parental claims and obligations of unwed fathers;
- Seduction Acts which permit the fathers of unwed daughters to sue the supposed seducer for loss of services; and
- provisions governing registration of names under Vital Statistics acts which require registration of a child under the father's surname and the child of an unmarried woman to be registered under her surname;
- provisions governing change of name of children of a former marriage which frequently require the mother to have the consent of both current and former spouse.

It may be assumed that these relatively minor inequalities between the rights of parents will be eliminated by the need to comply with Article 15 of the Canadian Charter of Rights and Freedoms.

## PRINCIPAL STATUTES

### YUKON TERRITORY

Matrimonial Property and Family Support Act, O.Y.T. 1980 (2nd) c. 15.

### NORTHWEST TERRITORIES

Education Ordinance, O.N.W.T. 1976(1st), c. 2.

### BRITISH COLUMBIA

Family Relations Act, R.S.B.C. 1979, c. 121, ss.24, 27, 29, 56.

Family and Child Service Act, S.B.C. 1980, c. 11, s.2.

Child Paternity and Support Act, R.S.B.C. 1979, c.49.

Name Act, R.S.B.C. 1979, c. 295, s.4(2).

Vital Statistics Act, R.S.B.C. 1979, c. 425, ss.3(6), 3(7), 3(8).

### ALBERTA

Child Welfare Act, R.S.A. 1980, Chap. C-8.

Domestic Relations Act, R.S.A. 1980, c. D-37.

Family Relief Act, R.S.A. 1980, c. F-2.

Intestate Succession Act, R.S.A. 1980, c. I-9.

Maintenance Order Act, R.S.A. 1980, c. M-1.

Reciprocal Enforcement of Maintenance Orders Act, R.S.A. 1980, c. R-7.

Seduction Act, R.S.A. 1980, c. S-7.

Social Development Act, R.S.A. 1980, c. S-16.

Wills Act, R.S.A. 1980, c. W-11.

Women's Institute Act, R.S.A. 1980, c. W-13.

### SASKATCHEWAN

Family Services Act, R.S.S. 1978, c. F-7, ss.8, 11-15, 29, 32-34, 38, 41, 43, 46, 47, 51-53, 56, 60-63, 73, 76.

Infants Act, R.S.S. 1978, c. I-9, ss.3, 4, 6, 9-11, 16, 17, 20, 22-25, 28, 29, 39, 40.

Queen's Bench Act, R.S.S. 1978, c. Q-1, ss.34-37, 45(11).

Reciprocal Enforcement of Maintenance Orders Act, R.S.S. 1978, c. R-4, ss.3-9.

Deserted Wives' and Childrens' Maintenance Orders Act, R.S.S. 1978, c. D-26, ss.2, 4-6, 8, 14, 21, 31, 34, 35.

Vital Statistics Act, R.S.S. 1978, c. V-7, ss.4, 6, 8, 9, 25, 26, 30.
Education Act, R.S.S. 1978, c. E-0.1, ss.144.1, 155, 156, 163, 180, 181, 184, 188, 191.
Children of Unmarried Parents Act, R.S.S. 1978, c. C-8, ss.3, 4, 7-9, 14, 15, 17, 18, 20, 27, 30, 35, 36, 40.
Seduction Act, R.S.S. 1978, c. S-43, ss.2-5.
Change of Name Act, R.S.S. 1978, c. C-6, ss.3-6.1, 11.
Extra-Provincial Custody Orders Enforcement Act, R.S.S. 1978, c. E-18, ss.3-6.
Legitimacy Act, R.S.S. 1978, c. L-13, ss.2-7.
Parents' Maintenance Act, R.S.S. 1978, c. P-1, ss.2-4, 6, 7.
Dependants' Relief Act, R.S.S. 1978, c. D-25, ss.2-4, 9.
Intestate Succession Act, R.S.S. 1978, c. I-13, ss.3-5, 13, 14, 16, 17.
Wills Act, R.S.S. 1978, ss.32, 33.
Marriage Act, R.S.S. 1978, c. M-4, ss. 37, 38.
Public Health Act, R.S.S. 1978, c. P-37, ss.69, 70.
Venereal Disease Prevention Act. R.S.S. 1978, c. V-4, s.23.

MANITOBA

Change of Name Act, S.M. 1971, c. 69, s.2.
Child Custody Enforcement Act, S.M. 1982, c. 27, ss.1, 3, 4, 8-10, 13.
Child Welfare Act, S.M. 1974, c. 30, ss.13, 38, 56-79, 105, 107, 117, 118, 127.
Corrections Act, R.S.M. 1970, c. C-230, ss.11, 13.
Devolution of Estates Act, R.S.M. 1970, c. D-70, ss.5, 6.
Employment Standards Act, R.S.M. 1970, c. E-110, s.15.
Family Maintenance Act, S.M. 1978, c. 25, ss.12, 13, 14, 15, 24-31.
Garnishment Act, R.S.M. 1970, c. G-20, ss.14, 15.
Legitimacy Act, R.S.M. 1970, c. L-130, ss.2-6.
Marriage Act, R.S.M. 1970, c. M-50, s.21.
Mental Health Act, R.S.M. 1970, c. M-110, ss. 18, 32-35, 40, 48-49, 67.

Parents Maintenance Act, R.S.M. 1970, c. P-10, ss.2-4.

Social Allowances Act, R.S.M. 1970, c. S-160, s.20.

Testators Family Maintenance Act, R.S.M. 1970, c. T-50, s.3.

Vital Statistics Act, R.S.M. 1970, c. V-60, ss.6, 8.

Wills Act, R.S.M. 1970, c. W-150, s.27.

### ONTARIO

Family Law Reform Act, R.S.O. 1980, c. 152, s.s. 14, 16, 18-20, 35, 36, 50-55.

Vital Statistics Act, R.S.O. 1980, c. 524, s.s.6, 26, 57-63, 71, 72.

Marriage Act, R.S.O. 1980, c. 256, s.s. 5, 6.

### QUEBEC

Civil Code of Quebec, s.s. 443, 448, 648*

### NEW BRUNSWICK

Child and Family Services and Family Relations Act, S.N.B., Vol. II c. C-2.1.

Children of Unmarried Parents Act, R.S.N.B. 1973, c. C-3.

Devolution of Estates Act, R.S.N.B. 1973, c. D-9.

Guardianship of Children Act, R.S.N.B. 1973, c. G-8.

Testator's Family Maintenance Act, R.S.N.B. 1973, c. T-4.

Vital Statistics Act, S.N.B., Vol. VI, c. V-3.

### NOVA SCOTIA

Family Maintenance Act, S.N.S. 1980, c. 6, ss.3-6, 8-13.

### PRINCE EDWARD ISLAND

Children's Act, R.S.P.E.I. 1974, c. C-6.

Family and Child Services Act, S.P.E.I. 1981, c. 12.

Family Law Reform Act, S.P.E.I. 1978, c. F-2.1.

Probate Act, R.S.P.E.I. 1974, c. P-19.

Reciprocal Enforcement of Maintenance Orders Act, R.S.P.E.I. 1974, c. R-8.

School Act, R.S.P.E.I. 1974, c. S-2.

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* See Appendix II, the Report of Quebec, p. 47.

NEWFOUNDLAND

Child Welfare Act, S.N. 1972, No. 37, ss.1-59.

School Attendance Act, S.N. 1978, c. 78, s.4.

## ARTICLE 16.1 (e)

> States Parties ... shall ensure, on a basis of equality of men and women:
> (e) The same rights to decide freely and responsibly on the number and spacing of their children and to have access to the information, education and means to enable them to exercise these rights;

The dissemination of information and/or provision of education in the area of birth control, is not a major program activity at any level of government in Canada.

The federal government supports improved family planning as the preferred method of birth control. Family planning grants to provincial/territorial governments and to national voluntary agencies are made by the Health Services Directorate of Health and Welfare Canada.

While the federal government does not view abortion as a form of birth control, the procedure is permitted under s. 251 of the Criminal Code under certain conditions. Abortion is not an indictable offence for:

> (a) a qualified medical practitioner, other than a member of a therapeutic abortion committee for any hospital, who in good faith uses in an accredited or approved hospital any means for the purpose of carrying out his intention to procure the miscarriage of a female person, or
>
> (b) a female person who, being pregnant, permits a qualified medical practitioner to use in an accredited or approved hospital any means described in paragraph (a) for the purpose of carrying out her intention to procure her own miscarriage,
>
> if, before the use of those means, the therapeutic abortion committee for that accredited or approved hospital, by a majority of the members of the committee and at a meeting of the committee at which the case of such female person has been reviewed,
>
> (c) has by certificate in writing stated that in its opinion the continuation of the pregnancy of such female person would or would be likely to endanger her life or health, and
>
> (d) has caused a copy of such certificate to be given to the qualified medical practitioner (s. 251(4).

It was noted in the Report of the Committee on the Operation of the Abortion Law (February 1977) that "the procedures set out for the operation of the abortion law are not working equitably in Canada." The issue is again one of federal/provincial relations. While the Criminal Code is a federal statute, the therapeutic abortion committees mentioned in its text are to be set up within the context of the hospital health system which is a provincial responsibility.

Family planning programs/activities are notable at the federal and provincial/territorial levels for their relative scarcity and lack of funding. Few governments have stated policies on the matter.
Some may go so far as to support the concept, defining it, in Alberta's case, as "the personal management of reproduction and the opportunity to make informed decisions about parenting."

Provincial governments note that:

- clinical health services are available through the insured physician services program;
- Departments of Health offer funding to voluntary organizations offering family planning education;
- a Family Life Coordinator or consultant may be appointed to review needs and establish appropriate programs;
- counselling services may be provided by public health nurses amongst other duties.

Access to information may not be the same for all Canadians due both to the difficulty of serving remote areas and to differential provision of services amongst the provinces/territories.

## ARTICLE 16.1 (f)

> States Parties ... shall ensure, on a basis of equality of men and women:
> (f) The same rights and responsibilities with regard to guardianship, wardship, trusteeship and adoption of children, or similar institutions where these concepts exist in national legislation. In all cases the interests of the children shall be paramount;

No level of government within Canada has exclusive jurisdiction over children. Each level can, within its fields of jurisdiction, legislate to give children the protection they require as minors. Provincial and territorial governments have accomplished this by legislating to protect children in the areas of guardianship and children's welfare.

### 1 GUARDIANSHIP

Provincial/territorial legislation states that, in the absence of a court order to the contrary "the father and mother shall be joint guardians of their infant children, with equal powers, rights and duties in respect thereof" (Saskatchewan Infants Act, s. 22(1)). In several jurisdictions the mother of a child born outside marriage is, in the absence of a court order to the contrary, the sole guardian of that child.

Parental guardianship is confined to the guardianship of the person. Guardianship of the property of an infant may be directed through court appointment. And where no such guardian has been appointed the intervention (when required) of an Official Guardian or a Public Trustee is permitted. Provisions governing the concept of guardianship are usually to be found in such statutes as Infants Acts or Family/Domestic Relations acts.

### 2 WARDSHIP

In cases where a child is believed to be in need of protection, custody and guardianship of the person may be transferred to a public official under child welfare legislation. Children may be made either temporary or permanent wards of the Crown "when it appears to a judge that the public interest and the interest of a child found to be a neglected child may best be served thereby" (Child Welfare Act (Alberta) s. 16).

### 3 ADOPTION

All provincial/ territorial jurisdictions have statutory provisions to regulate adoption procedures. Such provisions may be located in Child Welfare/Family and Child Service acts or may be embodied in specific statutes such as Adoption acts.

The power to adopt is granted, by statute, to women and men equally, irrespective of marital status provided they have reached the age of majority. In practice, special requirements under regulations make it difficult for an unmarried person to adopt a child. Unequal treatment arises again from the issue of illegitimacy in that only the mother's consent is required for an adoption order in those cases where the child is born outside marriage. An adopted child becomes for all purposes the child of the adopting parent and ceases to be the child of the person who was her/his parent before the adoption order was made.

There is a federal interest in the concept of adoption inasmuch as the federal government has undertaken agreements to deal with special cases such as international adoptions. Also the status rights, privileges, disabilities and limitations of an adopted Indian person acquired as an Indian under the Indian Act are not subject to the usual effects of adoption.

All adoptions are required to be registered, usually under relevant provisions of the appropriate Vital Statistics Act.

The federal government has used its spending and taxation power to afford some measure of protection to children.

- Using its spending power under the Constitution Act 1867, the federal Parliament has set up a family allowance system.
- Under its power to raise money by taxation (Constitution Act, 1867, s. 91(3)), the federal government has created child tax credits to assist low and middle income families meet the costs associated with child-rearing. The government also permits income tax exemptions for dependent minors and the deduction of certain child care costs from the incomes of working mothers. (In certain circumstances this latter deduction may be extended to the incomes of working fathers.)

## PRINCIPAL STATUTES

### CANADA
Constitution Act, 1867

### YUKON TERRITORY
Child Welfare Act, R.O.Y.T. 1971, c. C-4.

### NORTHWEST TERRITORIES
Child Welfare Ordinance, R.O.N.W.T. 1974, c. C-3 as am.

### BRITISH COLUMBIA
Family Relations Act, R.S.B.C. 1979, c. 121, ss.25, 26, 27, 28, 29.
Family and Child Services Act, S.B.C. 1980, c. 11, ss.9, 10.

Trustee Act, R.S.B.C. 1979, c. 414, ss.24, 25.
Vital Statistics Act, R.S.B.C. 1979, c. 425, s.9.
Adoption Act, R.S.B.C. 1979, c. 4, ss.3, 8, 11.

ALBERTA

Child Welfare Act, R.S.A. 1980, c. C-8.
Dependent Adults Act, R.S.A. 1980, c. D-32.
Domestic Relations Act, R.S.A. 1980, c. D-37.
Vital Statistics Act, R.S.A. 1980, c. V-4.
Women's Institute Act, R.S.A. 1980, c. W-13.

SASKATCHEWAN

Family Services Act, R.S.S. 1978, c. F-7, ss.8, 11-15, 29, 32-34, 38, 41, 43, 46, 47, 50-53, 56, 60-63, 73, 76.
Infants Act, R.S.S. 1978, c. I-9, ss.3, 4, 6, 9-11, 16, 17, 20, 22-25, 28, 29, 39, 40.
Queen's Bench Act, R.S.S. 1978, c. Q-1, s.45(11).
Extra-Provincial Custody Orders Enforcement Act, R.S.S. 1978, c. E-18, ss.3-6.
Vital Statistics Act, R.S.S. 1978, c. V-7, s.10.

MANITOBA

Child Welfare Act, S.M. 1974, c. 30, ss.15, 16, 19, 24-27, 29, 84, 89, 106-109, 114, 115, 120.
Vital Statistics Act, R.S.M. 1970, c. V-60, s.10.

ONTARIO

Child Welfare Act, R.S.O. 1980, c. 66, ss. 59-88.
Minors Act, R.S.O. 1980, c. 292, s.2.
Family Law Reform Act, R.S.O. 1980, c. 152, s.35, 36, 50-55.

QUEBEC

Adoption Act, R.S.Q. c. A-7.
Civil Code of Lower Canada, ss. 30, 31, 251, 252.
Civil Code of Quebec, s. 594.*

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* See Appendix II, the Report of Quebec, pp. 48-49.

NEW BRUNSWICK

Child and Family Services and Family Relations Act, S.N.B. Vol. II, c. C-2.1.

Guardianship of Children Act, R.S.N.B. 1973, c. G-8.

International Child Abduction Act, S.N.B. Vol. III, c. I-12.1.

NOVA SCOTIA

Children's Services Act, S.N.S. 1976, c. 8, s.13.

Guardianship Act, S.N.S. 1977, c. 18, ss.2-5.

Infants' Custody Act, S.N.S. 1970-71, c. 48, s.1.

PRINCE EDWARD ISLAND

Adoption Act, R.S.P.E.I. 1974, c. A-1.

Children's Act, R.S.P.E.I. 1974, c. C-6.

Family and Child Services Act, S.P.E.I. 1981, c. 12.

Vital Statistics Act, R.S.P.E.I. 1974, c. V-6.

NEWFOUNDLAND

Adoption of Children Act, S.N. 1972, No. 36, ss.1-27.

Child Welfare Act, S.N. 1972, No. 37, ss.1-52.

## ARTICLE 16.1 (g)

> States Parties ... shall ensure, on a basis of equality of men and women:
>
> (g) The same personal rights as husband and wife, including the right to choose a family name, a profession and an occupation,

The choice of a family name is a matter under provincial/territorial jurisdiction. In all provinces the use of a family name, often defined in the legislation as a surname or patronymic, is obligatory. The only exception in the past has been the use of a number rather than a name to identify certain aboriginal people in the Territories, particularly Inuit, who formerly did not use family names.

All provinces and both territories have Change of Name acts. In addition, Vital Statistics acts usually contain a provision requiring that the Director of Vital Statistics be notified of a name change thus permitting notation of the change to be made on the birth and/or marriage registration. The Change of Name acts follow a similar format. The provisions cover situations in which both spouses wish to change the family name; define the circumstances under which a child's name may be changed; and outline the rights of illegitimate children to a name.

This kind of legislation is not usually intended to cover changes in name of a woman at, during or after marriage with the exception of Saskatchewan which has a special provision (s.19) designed to accomodate such a change. While many women take the name of their husband at marriage, the practice is one of custom rather than law. Married women have the legal right to continue to use their birth name after marriage.

There are some incidences of unequal treatment accorded women and men under the Change of Name acts. (Similar instances of inequality with regard to the naming of children, dealt with under Article 16.1 (d), are to be found in the provisions covering the registration of births under the Vital Statistics acts.) For example:

- Most jurisdictions define name as including "given name and surname" further defining surname as including "family name and patronymic" that is, the family name through the male line.
- Some jurisdictions restrict the rights of married women to change their names. Both territories prohibit married women from applying during the life of the husband for a change in the surname acquired from him (s.4(3) in both cases). British Columbia restricts the choice of the wife to her husband's name, her maiden name or the name she had immediately prior to marriage while the husband may choose any name he wishes (s.3). New Brunswick requires a deserted woman to obtain the former spouse's consent before an application to change her name or the name(s) of her children will be granted (s. 8).

- Those acts which require applicants to be Canadian citizens may present problems for women who are not citizens and want to return to using their maiden names after the dissolution of marriage.

No differences exist between the rights of married women and those of married men to choose a profession or an occupation. And, in fact, the right is protected under the Saskatchewan Human Rights Code which provides that, "every person and every class of person shall enjoy the right to engage in and carry on any occupation, business or enterprise under the law without discrimination because of his or their ... sex, marital status ...".

In practice the choices made by women are shaped by prevailing social attitudes concerning the proper roles of married women and by the family responsibilities which still tend to fall more heavily on women than on men. However, as noted in the text under Article 5, there has been a notable increase in government initiatives aimed at overcoming the effects of sex-role stereotyping in recent years. Indications of their success are to be found, for example, in the increased enrolments of women in faculties of law and medicine. Recent trends in the movement of women into jobs traditionally held by men also provide evidence of attitudinal change.

## PRINCIPAL STATUTES

### YUKON TERRITORY

Change of Name Act, R.O.Y.T. 1971, c. C-3.
Married Women's Property Act, R.O.Y.T. 1971, c. M-4.
Vital Statistics Act, R.O.Y.T. 1971, c. V-2.

### NORTHWEST TERRITORIES

Change of Name Ordinance, R.O.N.W.T. 1974, c. C-2.
Vital Statistics Ordinance, R.O.N.W.T. 1974, c. V-4.

### BRITISH COLUMBIA

Name Act, R.S.B.C. 1979, c. 295, ss.3, 4.
Vital Statistics Act, R.S.B.C. 1979, c. 425, s.20.

### ALBERTA

Change of Name Act, R.S.A. 1980, c. C-4.
Married Women's Act, R.S.A. 1980, c. M-7.
Vital Statistics Act, R.S.A. 1980, c. V-4.

### SASKATCHEWAN

Change of Name Act, R.S.S. 1978, c. C-6, ss.3-5, 6.1, 11, 19.
Vital Statistics Act, R.S.S. 1978, c. V-7, ss.30, 31.

Age of Majority Act, R.S.S. 1978, c. A-6, s.2.

Married Women's Property Act, R.S.S. 1978, c. M-6, ss.3-6, 8-16, 20, 21, 23, 24.

MANITOBA

Change of Name Act, S.M. 1971, c. 69, s.2.

Elderly and Infirm Person's Housing Act, R.S.M. 1970, c. E-20, s.2.

Evidence Act, R.S.M. 1970, c. E-150, ss.5, 6, 10.

Family Maintenance Act, S.M. 1978, c. 25, s.22.

Human Tissue Act, R.S.M. 1970, c. H-180, s.3.

Married Women,s Property Act, R.S.M. 1970, c. M-70, ss.3(f), 6(c).

ONTARIO

Change of Name Act, R.S.O. 1980, c. 62, ss. 4-9.

Vital Statistics Act, R.S.O. 1980, c. 524, ss. 6, 12, 13.

QUEBEC

An Act respecting the Change of Name and other particulars of Civil Status, R.S.Q., c. c-10, ss. 3, 6, 8.

Civil Code of Quebec, s.442*

NEW BRUNSWICK

Change of Name Act, R.S.N.B. 1973, c. C-2.

Human Rights Act, R.S.N.B. 1973, c. H-11; as. am.

NOVA SCOTIA

Change of Name Act, S.N.S. 1977, c.6, ss.4-7.

PRINCE EDWARD ISLAND

Change of Name Act, R.S.P.E.I. 1974, c. C-3.

Vital Statistics Act, R.S.P.E.I. 1974, c. V-6.

NEWFOUNDLAND

Change of Name Act, 1978, S.N. 1978, c. 57.

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* See Appendix II, the Report of Quebec, p. 49.

## ARTICLE 16.1 (h)

> States Parties ... shall ensure, on a basis of equality of men and women:
> (h) The same rights for both spouses in respect of the ownership, acquisition, management, administration, enjoyment and disposition of property, whether free of charge or for a valuable consideration.

The property rights of spouses in Canada can best be understood by studying the legislation governing the disposition of property when marriage is dissolved by divorce. Up to the mid-seventies the property rights of married women were guaranteed under Married Women's Property legislation. These statutes were designed to secure for all married women the right to hold property in their own name and, in general, to give equality in status and capacity and promote a regime of separation of property. Thus in the common law provinces and territories, a married woman has the same property rights as a single woman.

As consciousness of equal rights grew, it was observed that rigid adherence to this doctrine raised problems with regard to proprietary rights in the matrimonial home and in assets accumulated over the duration of the marriage. There have been a number of decisions from the Supreme Court of Canada which have spurred public interest in the issue.*

As a result, most Canadian jurisdictions have enacted marital property statutes within the past eight years. Their purpose has been to ensure that an equal sharing of assets be made at the breakdown of marriage. These laws have certain features in common.

- The regimes can generally be described as regimes of deferred sharing with judicial discretion i.e. the property of each spouse is separate until marriage breakdown when certain assets are assumed to be shared. Only that of the Northwest Territories differs, being a regime only of judicial discretion.

- Neither spouse has rights during the marriage over property or assets acquired by the other, the exceptions being the matrimonial home and any property or assets registered in the joint names of the spouses.

- The matrimonial home cannot be sold or mortgaged without the consent of both spouses or a constraint order. In Newfoundland the matrimonial home is automatically owned by both spouses jointly.

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* cf. Murdoch v. Murdoch, (1974) 13 R.F.L. 185 (S.C.C.)
Rathwell v. Rathwell, (1978) 1 R.F.L. (2d) 1 (S.C.C.)
Pettkus v. Becker, (1980) 2 S.C.R. 834

- The concept of homestead rights in force in the Western provinces extends the rights attaching to the matrimonial home to specified amounts of land on which it stands. In Saskatchewan and British Columbia, such rights are not extended to the husband.

There are still certain provisions which may require reform before their impact falls less heavily on women than on men.

- Most provinces/territories exclude business and savings assets as shareable property.
- British Columbia and Manitoba provide for the sharing of assets accumulated under employer-sponsored pension plans. The Canada Pension Plan allows for the sharing of pension credits if application for division is made within three years of the final decree dissolving the marriage.
- In those jurisdictions where the legislation provides only for the sharing of assets upon separation or divorce, widows may (under succession laws) receive less than half of the family property.
- The provisions which permit the exercise of discretion have resulted in the continuation of outmoded social perceptions as to the worth of wives in the marriage partnership. The Canadian Advisory Council on the Status of Women notes that the "one-third rule", (deriving from the Ecclesiastical Courts' presumption that a woman is worth half as much as a man) is being applied by the judiciary when dividing non-family assets to which indirect contributions may have been made.

Ontario, the first jurisdiction in Canada to reform family law in 1975, has already announced plans to review the legislation in light of a recent Supreme Court case having to do with the division of assets after divorce.

It should be noted that according to the Indian Act all disposition of real property (land, buildings) on an Indian Reserve is subject to approval by the Minister. This has important implications for the formulation of a marriage property settlement upon dissolution of marriage, regardless of any provincial legislation. This situation may on occasion place status Indian women (as well as status Indian men) at a disadvantage, when compared with other Canadians in a similar context.

## PRINCIPAL STATUTES

### YUKON TERRITORY

Matrimonial Property and Family Support Act, O.Y.T. 1980 (2nd) c. 15.
Married Women's Property Act, O.Y.T. 1978, c. M-4.

### NORTHWEST TERRITORIES

Married Women's Property Ordinance, R.O.N.W.T. 1974, c.M-6.

Matrimonial Property Ordinance, R.O.N.W.T. 1974, c. M-7 as am. (not fully proclaimed).

BRITISH COLUMBIA

Family Relations Act, R.S.B.C. 1979, c. 121, ss.43, 45.
Married Woman's Property Act, R.S.B.C. 1979, c. 252.
Land (Wife Protection) Act, R.S.B.C. 1979, c. 223.
Land (Settled Estate) Act, R.S.B.C. 1979, c. 215, ss.52, 53, 54.
Homestead Act, R.S.B.C. 1979, c. 173, ss.5, 6.
Estate Administration Act, R.S.B.C. 1979, c. 114, ss.96, 107, 108, 111.
Wills Variation Act, R.S.B.C. 1979, s.435.

ALBERTA

Law of Property Act, R.S.A. 1980, c. L-8.
Matrimonial Property Act, R.S.A. 1980, c. M-9.

SASKATCHEWAN

Matrimonial Property Act, R.S.S. 1978, c. M-6.1, ss.3-52.
Married Persons' Property Act, R.S.S. 1978, c. M-6, ss.3-8, 10, 11, 13-16, 20, 21, 23, 24.
Homesteads Act, R.S.S. 1978, c. H-5, ss.3-5, 8, 9, 12, 19.
Intestate Succession Act, R.S.S. 1978, c. I-13, ss.3-6, 14, 15, 18.
Wills Act, R.S.S. 1978, c.W-14, ss.3, 12, 13, 15, 32.
Dependants' Relief Act, R.S.S. 1978, c. D-25, ss.4, 9.
Queen's Bench Act, R.S.S. 1978, c. Q-1, ss.34-36, 38, 39.
Devolution of Real Property Act, R.S.S. 1978, c. D-27, s.18.
Land Titles Act, R.S.S. 1978, c. L-5, ss.130, 245-247.

MANITOBA

Dower Act, R.S.M. 1970, c. D-100.
Law of Property Act, R.S.M. 1970, c. L-90.
Marital Property Act, S.M. 1978, c. 24.
Married Women's Property Act, R.S.M. 1970, c. M-70.
Testators Family Maintenance Act, R.S.M. 1970, c. T-50.

Devolution of Estates Act, R.S.M. 1970, c. D-70.

ONTARIO

Family Law Reform Act, R.S.O. 1980, c. 152, ss. 1, 3, 4, 6, 8, 11, 12, 14-19, 38-40, 45, 50-71.

Succession Law Reform Act, R.S.O. 1980, c. 488, ss. 44-49, 50-73.

QUEBEC

Civil Code of Quebec ss. 441-458, 460, 524, 633-655*

NEW BRUNSWICK

Marital Property Act, S.N.B. Vol. IV, c. M-1.1.

Married Woman's Property Act, R.S.N.B. 1973, c. M-4.

NOVA SCOTIA

Matrimonial Property Act, S.N.S. 1980, c. 9, ss.8, 12-13, 15, 21.

PRINCE EDWARD ISLAND

Family Law Reform Act, S.P.E.I. 1978, c.2.1.

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* See Appendix II, the Report of Quebec, p. 47 and 49.

ARTICLE 16.2

> The betrothal and the marriage of a child shall have no legal effect and all necessary action, including legislation, shall be taken to specify a minimum age for marriage and to make the registration of marriage in an official registry compulsory.

Because "capacity to marry" is a matter within federal jurisdiction, provincial/territorial laws may not specify a minimum age for marriage. However, in accord with their responsibilities regarding the formalities of marriage, the provinces and territories are able to set an age below which a marriage license may not be issued as well as an age below which parental or court consent is required before a license may be issued. In those instances where such ages are not prescribed, the age of capacity to marry would, according to pre-existing English law, be fixed at 12 years for females and 14 years for males. The following table shows the variation of the specified ages amongst the jurisdictions under consideration. The ages are the same for both sexes with the exception of the New Brunswick age with consent. Quebec is not included in the table but see Appendix II, the Report of Quebec, p. 46 for the situation in Quebec.

| Jurisdiction | Age with Consent | Age without Consent |
|---|---|---|
| Yukon Territory | 15 | 21 |
| Northwest Territories | 15 | 19 |
| British Columbia | 16 | 19 |
| Alberta | 16 | 18 |
| Saskatchewan | 16 | 18 |
| Manitoba | 16 | 18 |
| Ontario | 16 | 18 |
| New Brunswick | not specified | 18 |
| Nova Scotia | 16 | 19 |
| Prince Edward Island | 16 | 18 |
| Newfoundland | 16 | 19 |

Certain instances of unequal treatment are to be found in provincial Marriage Acts, both in the consent clauses themselves and in the clauses prohibiting the issuing of licences to persons below the specified age.

- Nova Scotia (s.17) and New Brunswick (s.19) require only the consent of the father unless the mother has custody or the father is living apart from and not maintaining the family. Both Nova Scotia and Newfoundland exempt the father from giving consent where the person seeking it is illegitimate.

- Eight jurisdictions have special provisions covering exceptions to the minimum marriage age. In five cases (Yukon (s.22) Northwest Territories (s.22) Alberta (s.19) Nova Scotia (s.18) Prince Edward

> Island (s.17) the prohibition to issue a license to underage parties is suspended for female contracting parties where a certificate of pregnancy is presented. British Columbia and Saskatchewan permit the issue of licenses to underage parties where the courts have decided, in the first case, that "marriage is shown to be expedient and in the interests of both parties" (s.25(2)) and in the second "that the age of the person should not prohibit the solemnization of the proposed marriage" (s.31(1)).

In cases where the marriage of persons under the specified minimum age for obtaining a license does take place, certain provinces/territories (Yukon Territory (s.48), Northwest Territories (s.49), Alberta (s.21), Nova Scotia (s.41)) assign the courts power to entertain action by the minor party to annul the marriage providing it can be shown that the marriage was not consummated and that cohabitation after or carnal intercourse before the ceremony did not occur. (Non-consummation alone is a ground for voiding marriage at any age). A marriage of a female under 12 years or a male under 14 years would be void for lack of capacity.

The requirement to register marriages, is provided for in the legislation of all jurisdictions. The marriage acts typically require the person authorized to solemnize the marriage (clergyman, marriage commissioner or court official) to register the marriage in accordance with the relevant provisions of the appropriate Vital Statistics Act.

Betrothal of children is not a practice in Canada.

## PRINCIPAL STATUTES

### YUKON TERRITORY

Marriage Act, R.O.Y.T. 1971, c. M-3. as. am.

Vital Statistics Act, O.Y.T. 1978, c. V-2.

### NORTHWEST TERRITORIES

Marriage Ordinance, R.O.N.W.T. 1974, c. M-5 as am.

Vital Statistics Ordinance, R.O.N.W.T. 1974, c. V-4.

### BRITISH COLUMBIA

Marriage Act, R.S.B.C. 1979, c. 251, ss.24, 25, 26.

Age of Majority Act, R.S.B.C. 1979, c. 5, s.1.

### ALBERTA

Marriage Act, R.S.A. 1980, c. M-6.

Age of Majority Act, R.S.A. 1980, c. A-4.

### SASKATCHEWAN

Marriage Act, R.S.S. 1978, c. M-4, ss.10, 31, 37, 38, 44.

Age of Majority Act, R.S.S. 1978, c. A-6, s.2.
Vital Statistics Act, R.S.S. 1978, c. V-7, ss.11, 12.

MANITOBA

Age of Majority Act, S.M. 1970, c. 91, s.1.
Marriage Act, R.S.M. 1970, c. M-50, ss.21, 22, 24.1.
Vital Statistics Act, R.S.M. 1970, c. V-60, s.11.

NEW BRUNSWICK

Age of Majority Act, R.S.N.B. 1973, c. A-4.
Marriage Act, R.S.N.B. 1973, Chap. M-3.
Vital Statistics Act, S.N.B., Vol. VI, c. V-3.

ONTARIO

Marriage Act, R.S.O. 1980, c. 256, s.s. 5, 6.
Vital Statistics Act, R.S.O. 1980, c. 524, 515.

QUEBEC

Civil Code of Lower Canada s.115*

NOVA SCOTIA

Solemnization of Marriage Act, R.S.N.S. 1967, c. 287, ss.18, 41.

PRINCE EDWARD ISLAND

Marriage Act, R.S.P.E.I. 1974, c. M-5.
Vital Statistics Act, R.S.P.E.I. 1974, c. V-6.

NEWFOUNDLAND

Registration (Vital Statistics) Act, R.S.N. 1970, c. 329, s.23.
Solemnization of Marriage Act, S.N. 1974, No. 81, s.18.

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* See Appendix II, the Report of Quebec, p. 46.

Appendix I

# UNITED NATIONS CONVENTION ON THE ELIMINATION OF ALL FORMS OF DISCRIMINATION AGAINST WOMEN

Report of Measures Undertaken by
the Province of Ontario in Relation to
Articles 2-5, Article 7, and Articles
10-16 Inclusive.

Report prepared by
Province of Ontario

MARCH 1983

## INTRODUCTION

This document describes the measures undertaken by the Province of Ontario to address those areas identified by Articles 2 to 5, Article 7, and Articles 10 to 14, inclusive, of the International Convention on the Elimination of All Forms of Discrimination Against Women. Material relating to Article 1 has not been included as this article only provides a definition of terms. Also, as Articles 6, 8, and 9 relate to matters that fall primarily under federal jurisdiction, they have not been addressed in this report.

In each section, information has been organized under the general heading of "Nature of Activity". Where specific legislation, policies, and/or programs exist, these are noted as sub-headings. Depending on the type and/or extent of material available, responses have been made to either the Article and all its subsections together, or to the subsections individually.

## DISCRIMINATION: ARTICLES 2(b), (c), (d), (e), (f), 3, 4.1 & 4.2

Article 2: States Parties condemn discrimination against women in all its forms, agree to pursue by all appropriate means and without delay a policy of eliminating discrimination against women and, to this end, undertake:

(b): To adopt appropriate legislative and other measures, including sanctions where appropriate, prohibiting all discrimination against women;

(c): To establish legal protection of the rights of women on an equal basis with men and to ensure through competent national tribunals and other public institutions the effective protection of women against any act of discrimination;

(d): To refrain from engaging in any act or practice of discrimination against women and to ensure that public authorities and institutions shall act in conformity with this obligation;

(e): To take all appropriate measures to eliminate discrimination against women by any person, organization or enterprise;

(f): To take all appropriate measures, including legislation, to modify or abolish existing laws, regulations, customs and practices which constitute discrimination against women;

Article 3: States Parties shall take in all fields, in particular in the political, social, economic and cultural fields, all appropriate measures, including legislation, to ensure the full development and advancement of women, for the purpose of guaranteeing them the exercise and enjoyment of human rights and fundamental freedoms on a basis of equality with men.

Nature of Activity:

1. Legislation

The Ontario Human Right Commission administers the Human Rights Code, 1981 (Statutes of Ontario, 1981, Chapter 53), which prohibits discrimination in employment, vocational associations, services, goods, facilities, accommodation, contracts, signs and notices because of race, ancestry, place of origin, colour, ethnic origin, citizenship, creed, sex, age (18 and over in all areas but employment and 18-65 in employment), marital status, family status, handicap, record of offences (in employment only) and receipt of public assistance (in accommodation only).

The Code forbids harassment because of any of the prohibited grounds (including sex) in accommodation and employment. Harassment is defined as a course of vexatious comment or conduct that is known or ought reasonably to be known to be unwelcome. The Code also prohibits unwanted sexual solicitations or advances made by a person in a position to confer, grant or deny a benefit because an advance has been refused.

These provisions apply to all persons within provincial jurisdiction, including domestics employed in private households.

Discrimination is also prohibited in advertising, application forms, recruitment and screening for employment purposes. Also prohibited are signs or notices that indicate an intention to infringe a right under the Code, or to incite such an infringement.

During the fiscal year 1981-82, 1,000 complaints were resolved by the Commission. Of these, 372 (37%) alleged discrimination on the grounds of sex. This category of complaint ranks second to the highest ground cited, that of race or colour.

## 2. Program

In 1963, the Women's Bureau of the Ministry of Labour was established to provide a centre for study, information and action focusing on issues of concern to women in the paid labour force.

The Women's Bureau works to improve the status of women in the workforce and responds to numerous public requests for information, referrals, advice and assistance. Research and analysis of issues affecting women's employment status and of up-to-date employment data is ongoing. New publications and audio visual aids are developed as the need becomes apparent. A Resource Centre is operated for the use of students, researchers and the media.

Vocational counselling agencies and groups working with low-income, native and immigrant women are supplied with programming assistance. In addition to such outreach activities, the Bureau prepares studies and policy recommendations relating to the enactment and enforcement of labour legislation particularly as it affects women.

The Affirmative Action Consulting Service, created within the Women's Bureau in 1975, provides employers with encouragement and assistance in establishing affirmative action programs for female employees.

In 1979, an Advisory Council on Equal Opportunity for Women was established by the Ministry of Labour. Composed of 11 representatives of management and labour, the Council's mandate is to provide advice and assistance to the Minister of Labour and to the Affirmative Action Consulting Service in identifying the concerns of management and labour with regard to affirmative action.

Article 4.1: Adoption by States Parties of temporary special measures aimed at accelerating de facto equality between men and women shall not be considered discrimination as defined in the present convention, but shall in no way entail as a consequence the maintenance of unequal or separate standards; these measures shall be discontinued when the objectives of equality of opportunity and treatment have been achieved.

Nature of Activity:

1. Legislation

Under section 13 of the Ontario Human Rights Code, 1981, a special program is a program:

- designed to relieve hardship or economic disadvantage; or
- designed to assist disadvantaged persons or groups to achieve or attempt to achieve equal opportunity; or
- that is likely to contribute to the elimination of discrimination prohibited by the Code.

Examples include a special program designed to promote the hiring and advancement of women, or designed to encourage the enrolment of native or mature students in universities.

A person's right to equal treatment without discrimination under the Code is not infringed by the establishment of a special program. The Ontario Human Rights Commission may review a special program to see if it satisfies the requirements listed above, and may declare that it will satisfy the requirements after modifications recommended by the Commission are put into effect.

Anyone wishing to implement a special program may contact the Commission in advance for an opinion as to whether the proposed program meets the requirements of the Code. The Commission may approve the program, or may advise that it be modified.

The Commission itself may recommend the implementation of a special program.

A person who believes that his or her rights are being affected by a declaration of the Ontario Human Rights Commission with respect to a special program may request the Commission to reconsider its decision.

## 2. Program

The promotion of "temporary special measures" or affirmative action programs among employers in Ontario is conducted by the Affirmative Action Consulting Service of the Women's Bureau, Ontario Ministry of Labour. Employers are encouraged to adopt, on a voluntary basis, affirmative action programs for their female employees.

In order to monitor the effectiveness of the voluntary affirmative action approach, the Consulting Service conducts annual surveys of Ontario employers with whom the Service had had varying degrees of contact. The most recent survey for which results are available, (1980), was based on a questionnaire mailed to 309 employers; 136 (44%) responded. Almost half of the respondents (65 or 47.8%) recognized the need for special measures to provide equal employment opportunities for their women employees and indicated some involvement in affirmative action.

The Government of Ontario has adopted an affirmative action policy with the objective of raising the level and diversifying the occupational distribution of women Crown employees.

In 1974, the Women Crown Employees (WCEO) office was established to develop and monitor the implementation of the affirmative action policy. This office is responsible for developing, stimulating, facilitating and evaluating government-wide policies and practices to achieve equal opportunity.

The WCEO reports annually to the Provincial Legislature, through the Minister of Labour, on the status of women Crown employees. An internal report to Cabinet is made semi-annually.

The Affirmative Action Program is implemented through a decentralized structure whereby Deputy Ministers and agency heads maintain Program responsibility. Program activities within individual ministries are organized, developed and monitored by Affirmative Action Program Managers.

In 1976, the Government established the Affirmative Action Council, which is an official body composed of the Affirmative Action Program Managers. The Council provides a formal mechanism for communication between the Program Managers and the Director of the Women Crown Employees Office, with regard to issues, policies and practices affecting Women Crown employees.

The revised Affirmative Action Directive, which was issued in 1980, established a process for numerical planning targets. The Directive requires that each ministry prepare numerical hire/promotion planning targets for all classification levels with less than 30% female representation. These targets are calculated according to the availability of qualified women and projected vacancy rates.

As well, each ministry sets a target number of accelerated career development initiatives which will make women qualified to compete for jobs where there are currently few women. Ministries receive assistance through a centrally monitored Affirmative Action Incentive Fund to augment their own developmental budgets.

To ensure management accountability, affirmative action program components have been tied to the management program planning and resource allocation processes, as well as the performance appraisal system.

Data compiled by the Women Crown Employees Office for its 1981/82 Annual Report indicates the following:

- For the seventh consecutive year, women have increased their share of employment in the Ontario Government. Women's representation of total employment in 1981/82 was 41.5% compared with 41.2% in 1980/81. The number of both men and women Civil Servants decreased during 1981/82.
- Women's average salary for 1981/82 was 73.6% of men's for a decrease of 1.6% in the wage gap since 1980/81.
- Compared to the previous fiscal year, women in 1981/82 increased their representation (as a percentage of all women in the Ontario Government) by 24.2% in the $15,000 to $22,999 salary range (now 60% of women) and by 5.1% in the over $23,000 salary range (14.2% of women).
- Gains were made by women in nine major classification groupings where women currently have less than 30% of the jobs. These include the Administrative, Professional and Operational Modules and the Law Enforcement Services Category.

- Women are now 6.9% (44 women) of the Executive Compensation Plan in the Civil Services and Agencies, Boards and Commissions; they are 7.3% (43 women) in the Civil Service alone. Women continue to increase their number and representation in the Executive Compensation Plan despite a decrease in the total number of executives.
- The number of hires/promotion decreased during 1981/82 but the percentage of females hires exceeded women's percentage of applicants and interviews. However, with the reduction in vacancies and hiring freezes, ministries were unable to meet the full number of numerical hire/promotion planning targets. The numbers set for accelerated career development initiatives were exceeded.

Article 4.2: Adoption by States Parties of special measures, including those measures contained in the present Convention, aimed at protecting maternity shall not be considered discriminatory.

Nature of Activity:

1. Legislation

Under the Employment Standards Act a women employee, who is eligible for pregnancy leave, is entitled to a flexible 17 week unpaid leave of absence, and, at the end of her leave, must be reinstated in her same or comparable job at the same rate of pay with no loss of seniority or benefits. The eligibility requirement is continuous employment with one employer for 63 weeks prior to the expected date of birth.

## SEX ROLE STEREOTYPING AND FAMILY EDUCATION: ARTICLE 5(a) & (b)

Article 5(a): To modify the social and cultural patterns of conduct of men and women, with a view to achieving the elimination of prejudices and customary and all other practices which are based on the idea of the inferiority or the superiority of either of the sexes or on stereotyped roles for men and women;

### Nature of Activity:

1. Program

In recognition of the existence of stereotyped beliefs regarding women and their appropriate role in society, which in turn, leads to discriminatory acts against women in the labour force, the Ontario government in 1963, established the Women's Bureau. (See page 4 for a description.) The Bureau's primary focus is public education. Through speaking engagements, media appearances, participation in workshops and seminars, and through the publication of factual and current statistical data which describe women's employment, the Women's Bureau works to change discriminatory and outmoded attitudes toward women in the workforce.

Attitudes regarding the roles of men and women are also addressed in the education system. Subject guidelines, issued by the Ministry of Education, clarify, for secondary school teachers, in Guidance, Family Studies, and History, that sex equity is a subject to be discussed, and that the experiences and contributions of both men and women are to be accurately reflected in the curriculum.

Article 5(b): To ensure that family education includes a proper understanding of maternity as a social function and the recognition of the common responsibility of men and women in the upbringing and development of their children, it being understood that the interest of the children is the primordial consideration in all cases.

## Nature of Activity:

### 1. Subject Guidelines, Ministry of Education

In Ontario, the Ministry of Education has issued subject guidelines in Family Studies, for each of the intermediate and senior divisions, from which school boards may develop courses of study. The primary purpose of Family Studies is education for family living.

The Family Studies Senior Division Guidelines refers to the common responsibility of men and women in the upbringing and development of children: "The concepts and aims of Family Studies are as valuable for young men as for young women, and it would be inappropriate to exclude one sex or the other from any course developed from these guidelines. It is expected, therefore, that all courses will be planned for co-educational classes and will contain a balance of reference to the needs and perceptions of boys and men, girls and women." (Source: 1977 Family Studies Curriculum Guideline.)

The guidelines include sections directed to "The Family and Child Development" (Intermediate Division) and "Family and Child" (Senior Division). The objectives of the "Family and Child" course of study include:

- to build a foundation for an evolving philosophy of family life including a concern for the well being of children;
- to explore the meaning and implications of responsible parenthood;
- to gain greater understanding and appreciation of the family's importance to the well being of the individual and of society.

The Ministry of Education's Intermediate Division Guidance Guideline also recognizes the common responsibility of men and women in the upbringing and development of their children. This Guideline includes a section titled Changing Sex Roles, and states, in part: "All aspects of the school's guidance program should reflect the changing roles of men and women. A special effort should be made to encourage students to develop a wholesome view of their sexuality and of their self-worth as human beings; to make students aware of the problems involved in redefining sex roles in terms of child-raising and homemaking; and to encourage the development of individuals who will assume liberated adult roles that meet their needs as human beings".

## POLITICAL AND PUBLIC LIFE: ARTICLE 7

Article 7: States Parties shall take all appropriate measures to eliminate discrimination against women in the political and public life of the country and, in particular, shall ensure to women, on equal terms with men, the right:

(a): To vote in all elections and public referenda and to be eligible for election to all publicly elected bodies;

(b): To participate in the formulation of government policy and the implementation thereof and to hold public office and perform all public functions at all levels of government;

(c): To participate in non-governmental organizations and associations concerned with the public and political life of the country.

Nature of Activity:

1. Policies and programs

- The right of Ontario citizens to vote and to stand for election to public bodies is accorded without discrimination on the basis of sex.
- Of 125 seats in the provincial legislature, 6 are held by women. Two women hold positions in the Ontario cabinet; they are the Minister of Education and the Provincial Secretary for Social Development.
- At the municipal level, many women in communities throughout Ontario have been elected to positions of school board trustee, alderman, and mayor.
- As an employer, the Government of Ontario has a publicly stated policy of equal opportunity. Further, it has an Affirmative Action Program to facilitate the progress of women into all levels and occupations in the Public Service, and thus into those jobs responsible for the implementation of government policy.

  Several ministries maintain lists of qualified women for appointments to Boards and Commissions.

- The Ontario Human Rights Code, 1981, prohibits discrimination in membership in vocational associations, on the basis of sex.

## EDUCATION: ARTICLE 10

Article 10: States Parties shall take all appropriate measures to eliminate discrimination against women in order to ensure to them equal rights with men in the field of education and in particular to ensure, on a basis of equality of men and women:

(a): The same conditions for career and vocational guidance, for access to studies and for the achievement of diplomas in educational establishments of all categories in rural as well as in urban areas; this equality shall be ensured in pre-school, general, technical, professional and higher technical education, as well as in all types of vocational training;

### Nature of Activity:

1. Policies, memoranda

Within the publicly-supported elementary and secondary school system, identical conditions exist for career and vocational guidance, access to studies, and achievement of diplomas, for both male and female students. The Ontario Ministry of Education strives to provide in the schools of the province equal educational opportunities for all.

To ensure equality of opportunity, policy statements concerning sex equity are included in the two circulars which outline curriculum policy for the elementary and secondary schools of Ontario - The Formative Years, 1975 and Circular HS, 1979-81.

To further emphasize Ministry policy of equal educational opportunity for all students memoranda concerning specific curriculum areas have been issued.

- In 1974 a memorandum on the Guidance and Counselling of Female Students was issued to Directors of Education on the need to "encourage female students to consider more fully the many diversified occupational fields now open to them and to set for themselves educational and training objectives that are consistent with the changing occupational outlook of women in today's society." This statement of policy was expanded upon in the 1977 Senior Division Guidance guideline, and in the 1978 Intermediate Division Guidance guideline.

- In 1979, a Ministry of Education memorandum was issued to Directors of Education and principals of schools stressing the need to avoid sex role stereotyping in student course selection in grades 7 and 8 Family Studies and Industrial Arts.
- In 1982, a a recent Ministry memorandum to all Directors School Boards included the Science Council of Canada's Statement of Concern: The Science Education of Women in Canada, to ensure that "no organizational or attitudinal barriers exist which might inhibit the participation of female students in science and mathematics courses".

## 2. Studies

The findings of studies funded by the Ministry of Education and the Ministry of Colleges and Universities examining career expectations and course selections of female students at the secondary level, and their relationship to traditional attitudes have been disseminated to educators, and educational publishers across the province to raise their understanding of how course and career selections are made by students.

To determine differences in male/female subject selection, the Ministry of Education conducted a survey in 1980 of course enrolment by subject and sex in 200 secondary (including technical) schools across the province. Information was also collected to determine whether there is a significant difference in male/female subject selection in Family Studies and Industrial Arts in grades 7 and 8.

Beginning September 1982, the Ministry of Education will collect annually, data on course enrolment by subject and sex in all secondary schools in the province. This type of data may help in determining whether or where intervention strategies could help in the guidance and direction of female students.

## 3. Special Programs, Projects, Committees

All students have equal access to the Colleges of Applied Arts and Technology, a post-secondary educational institution which provides education in job-oriented programs. Recognizing that barriers still exist that may deter female students from gaining system, and that programs offered may not accurately reflect the experiences and contributions of women as well as men, Ministry guidelines were issued in 1976 (Affirmative Action Guidelines for Women in the Colleges of Applied Arts and Technology, 1976) directing colleges to take special measures to correct any inequities in access and historical perspective.

Apprenticeship programs, administered through the Ministry of Colleges and Universities, are the primary means of training for the skilled trades in Ontario. Female enrolment in non-traditional apprenticeship programs is very limited. At the secondary school level only a very few female students are taking advantage of the opportunity to undertake training in non-traditional skilled trades through the Ministry's Linkage program, a program which allows students to receive credit for secondary school courses toward requirements for apprenticeship programs in skilled trades.

In an effort to facilitate women's entrance into skilled occupations in the industrial sector, a federal-provincial program called Introduction to Non-Traditional Occupations (INTO) was established. This eight-week course sponsored by the Canada Employment and Immigration Commission, is offered in most community colleges throughout Ontario. Women are given the opportunity to clarify their careers goals, develop self confidence, and learn job search techniques. They are also provided with "hands on" experience through short term job placements.

The Ministry of Colleges and Universities funded a study of the INTO program (Introduction to Non-Traditional Occupations Programs (INTO) Evaluation: Expanding Women's Career Options, 1980/81) that developed an instrument to measure knowledge of non-traditional occupations, and recommended course modifications to meet the stated objectives of INTO programs.

A "catch-up" or "break-in" program called Women into Trades and Technology (WITT) has been developed by the Ministry of Colleges and Universities. This 18 week program is designed to alleviate women's handicaps, resulting from a traditional socializing process, in training for non-traditional jobs. A number of Community Colleges are presently piloting the program and it is hoped that in the future it will be offered in most community colleges.

The Ministry of Colleges and Universities initiated two pilot projects designed to encourage employers to hire women for industrial and technical jobs. Through advertising, women are recruited from local community colleges and secondary schools to take part in the program. Individual employers are contacted and informed of the incentives available for hiring and training women - under the provincial program, Employer Sponsored Training, and the federal Critical Trades Skills Training program, wage subsidies of 70% are provided for women trainees (higher than the 50% wage subsidy for male trainees). The projects also involve Community Industrial Training Committees (C.I.T.C.'s) - committees that bring together local representatives of educational institutions, unions, and manufacturers. It is the committee's task to establish skill requirements in the community, identify resources that can be used in meeting the requirements (e.g. training programs and facilities, as well as possible trainees), and develop a training program based on this analysis. The C.I.T.C.'s administrative costs are covered by the Ministry of Colleges and Universities. The project co-ordinators for the pilot programs are working to encourage the committees in each project area to develop strategies aimed at increasing the number of women hired and trained for non-traditional jobs in industry.

In 1981, an Interministry Work Group, which included the Ministries of Education and Colleges and Universities, and the Women's Bureau, Ministry of Labour, was formed. Its purpose was to recommend strategies by which to increase the participation and promotion of female youth in non-traditional occupations; the ways of promotion to be aimed at students, parents, educators, employers and the public in general.

## 4. Resource Materials

A film "Breaking Through" produced in conjunction with the Women Into Trades and Technology course of study is available for use in encouraging women to consider training for a career in non-traditional skilled trades. Other films and audio-visual presentations have been produced and funded by the Ministry of Colleges and Universities, the Ministry of Education and the Ministry of Labour to encourage women to consider occupations not traditionally considered as a career choice for them.

Funds were provided by the Ministry of Colleges and Universities for the initial printing and distribution of Jobs for Your Future, a booklet produced by a voluntary organization, Bridging the Gap. One chapter entitled "Sex Doesn't Matter Anymore", discusses the changing world of work and women's entry into a wider variety of occupations.

Career counselling publications which provide women with basic information about training and jobs are produced by the Women's Bureau.

5. Career Counselling

The Women's Bureau, Ontario Ministry of Labour provides a consulting service to community counselling agencies which are assisting women in making vocational decisions and in developing their careers. Provincial counselling services are also available to women through the community college network of affirmative action coordinators, counsellors attached to the Ontario Career Action Program (a program that assists young people in obtaining permanent employment by providing them with the experience required by employers) and apprenticeship officers.

Ontario universities are autonomous institutions, established under their own Acts of Legislature and funded by provincial government grants. They are, therefore, fully responsible for all internal matters including the status of women students, faculty and staff. As individual institutions, universities are making attempts to take appropriate measures to eliminate discrimination against women in order to ensure them equal rights with men. Committees on the status of women at individual universities monitor activities at their university.

Article 10(b): Access to the same curricula, the same examinations, teaching staff with qualifications of the same standard and school premises and equipment of the same quality;

Nature of Activity:

1. Policy

The education system works to ensure that identical conditions exist for both sexes in access to curricula, examinations, qualified teaching staff, school premises, and equipment.

Article 10(c): The elimination of any stereotyped concept of the roles of men and women at all levels and in all forms of education by encouraging coeducation and other types of education which will help to achieve this aim and, in particular, by the revision of textbooks and school programmes and the adaptation of teaching methods;

Nature of Activity:

1. Policy, subject guidelines, support materials

Co-education is the practice in all publicly supported schools in Ontario. Policy has been established (see Article 10(a)) and support materials developed to assist teachers in developing a sexually equitable learning environment and a curriculum that accurately reflects the experiences and contributions of women as well as men.

Subject guidelines in Guidance, Family Studies, and History, further clarify Ministry policy on sex equity.

Support materials are issued in both English and French and distributed to administration and classroom teachers across Ontario. These documents (Girls and Women in Society, 1976, Changing Roles in a Changing World, 1976, and Sex Role Stereotyping and Women's Studies, 1978) provide information on non-sexist learning and assist teachers in translating policy into classroom practice.

Other educational support materials such as the Students Guidance and Information Service (S.G.I.S.), a computerized learning system giving information on a wide range of careers, are reviewed and updated by the Ministry on an on-going basis to ensure that they are free of sex bias.

The Ministry of Education does not revise textbooks, but a mechanism has been instituted to ensure that all materials included in Circular 14, which is the list of books approved by the Ministry for use in elementary and secondary schools, are free of sex bias. Textbooks used in schools that are not listed in Circular 14 are approved by local boards of education.

The Ministry funded the second printing of a booklet titled About Face: Towards a Positive Image of Women in Textbooks, which was distributed to all elementary schools in the province.

During the 1980-81 school year, the Ministry of Education conducted a Provincial Review of sex role stereotyping and Women's Studies at the elementary and secondary school level, to identify the level of implementation of Ministry policies and the attitudes of educators regarding the policies.

Article 10(d): The same opportunities to benefit from scholarships and other study grants;

(e): The same opportunities for access to programmes of continuing education, including adult and functional literacy programmes, particularly those aimed at reducing, at the earliest possible time, any gap in education existing between men and women;

(f): The reduction of female student drop-out rates and the organization of programmes for girls and women who have left school prematurely;

(g): The same opportunities to participate actively in sports and physical education;

(h): Access to specific educational information to help to ensure the health and well-being of families, including information and advice on family planning.

Nature of Activity:

1. Policy

- The same opportunities to benefit from scholarships and study grants are provided. However, there are still some inequalities in the granting of scholarships under various trusts.
- The same basic opportunities for access to programs of continuing education including adult and functional literacy programs exist for both men and women.
- The Ontario educational system is concerned about reducing the drop-out rate of both male and female students. Through such avenues as night school classes, correspondence courses and Community College courses an extensive array of programs are made available to all students who have left school prematurely.
- The principle, that the same opportunities to participate actively in sports and physical education, is in force through legislation and regulations within the public school system.
- Both male and female students have equal access to educational information on the health and well-being of families through such courses as Health and Family Studies.

## EMPLOYMENT PROTECTION: ARTICLES 11.1 AND 11.2

Article 11.1: States Parties shall take all appropriate measures to eliminate discrimination against women in the field of employment in order to ensure, on a basis of equality of men and women, the same rights, in particular:

Article 11.1(a): The right to work as an inalienable right of all human beings;

(b): The right to the same employment opportunities, including the application of the same criteria for selection in matters of employment;

(c): The right to free choice of profession and employment, the right to promotion, job security and all benefits and conditions of service and the right to receive vocational training and retraining, including apprenticeships, advanced vocational training and recurrent training;

### Nature of Activity:

See response to Articles 2, 3, and 4.1.

Article 11.1(d): The right to equal remuneration, including benefits, and to equal treatment in respect to work of equal value, as well as equality of treatment in the evaluation of the quality of work;

### Nature of Activity:

1. Legislation

Ontario has had equal pay legislation since 1951. Current provisions under the Employment Standards Act require that female employees receive the same rate of pay as male employees for substantially the same work, performed under the same working conditions. The Act is administered by the Employment Standards Branch of the Ministry of Labour whose field officers investigate individual complaints of alleged infractions and conduct routine audits of equal pay practices within establishments.

In matters concerning employee benefits plans or funds, the Employment Standards Act prohibits employers from differentiating between employees on the basis of sex, marital status, or age. The Act allows distinctions on the basis of actuarial grounds, but in general, extends this protection to all employees and their beneficiaries in respect of superannuation, retirement, unemployment, income replacement, death, disability, sickness, accident, or other similar benefits.

It is the position of the government of Ontario that the equal value concept cannot be practicably implemented through legislation, largely because of the difficulties in the universal application of job evaluation criteria. In recognition of this position, as well as of Ontario's equal pay legislation, the following statement was incorporated into Canada's Deposit of Ratification of the Convention on the Elimination of All Forms of Discrimination Against Women (dated December 10, 1981):

> The Government of Canada states that the competent legislative authorities within Canada have addressed the concept of equal pay referred to in article 11 (1)(d) by legislation which requires the establishment of rates of remuneration without discrimination on the basis of sex. The competent legislative authorities within Canada will continue to implement the object and purpose of article 11 (1)(d) and to that end have developed, and where appropriate will continue to develop additional legislative and other measures.

Article 11.1(e): The right to social security, particularly in cases of retirement, unemployment, sickness, invalidity and old age and other incapacity to work, as well as the right to paid leave;

Nature of Activity:

1. Income Maintenance Program for Senior Citizens

The Guaranteed Annual Income System (GAINS) was introduced in 1974 to ensure a minimum annual income for eligible Ontario residents 65 years of age and over. Qualifying senior citizens whose income level established by the provincial government receive monthly payments (called increments) to raise their incomes up to provincial income guarantee. GAINS is governed by the Ontario Guaranteed Annual Income Act, and applies equally to men and women. The program will have a somewhat greater impact on women, however, as they compose approximately 58 per cent of the population over age 65.

Article 11.1(f): The right to protection of health and to safety in working conditions, including the safeguarding of the function of reproduction.

Nature of Activity:

1. Legislation

The Occupational Health and Safety Act ("the Act") is administered by the Occupational Health and Safety Division, Ontario Ministry of Labour and is designed to help protect workers of both sexes against health and safety hazards in the workplace. The Act is based upon the concept of internal responsibility so that employers and workers share responsibility for occupational health and safety. Both must be actively involved in identifying hazards and implementing controls to reduce or eliminate the exposure of workers to those hazards.

There are provisions of the Act and regulations thereunder which could affect more women than men because of the composition of the work force. These would include:

the exclusion of homework from the definition of a factory and thus from the application of the industrial regulations;

the exclusion from the Act of work performed by the servant of an owner of a private residence;

the exclusion from the Act of a person employed as a teacher as defined under the Education Act, although a draft regulation has been prepared to extend the Act to teachers; and,

the exclusion from the mercury regulation of persons employed in the office of an employer engaged in the practice of dentistry.

There are provisions in the Industrial Establishments Regulation restricting the wearing of jewellery, loose clothing, and long hair which might be viewed as having a greater effect on women.

A new regulation, controlling worker exposure to lead, requires a control program to include provisions for medical examinations and clinical tests. The physician conducting the examination or test is required to advise the employer whether the worker is fit, fit with limitations, or unfit, and the employer is to act on the advice of the physician. The physician in giving this advice is to be governed by the Code for Medical Surveillance for Lead issued by the Ministry of Labour. The Code establishes for lead action levels for blood lead concentration; where the level is exceeded, the Code requires that the worker be removed from lead exposure. The level set for workers generally is 0.70 mg/L. However, there is a lower level of 0.40 mg/L for a woman capable of bearing children. This lower level is set in order to safeguard a developing fetus. The effect of this provision is that women of a child-bearing age may be removed from work involving lead exposure when a male worker would remain. However, levels are not the only criterion for removal of a worker. That is, men with blood levels less than .70 mg/L who exhibit symptoms related to lead exposure must also be removed from exposure to lead.

In addition the Code for Medical Surveillance for Lead provides that,

> "women workers should be encouraged to notify the employer and the examining physician as soon as possible if they become pregnant. When a physician is informed that a worker is pregnant, the physician must advise the worker and the employer whether the worker should be removed from further exposure to lead."

The new mercury regulation does not specify a separate action level for the removal from mercury of women capable of bearing children. It was felt that the medical evidence at present did not justify a separate action level. However the Code for Medical Surveillance for mercury does provide a general caution in non-mandatory language that,

> "Exposure of females capable of bearing children should be kept to a minimum".

The other three regulations for designated substances, namely coke oven emissions, vinyl chloride and asbestos, make no distinction between the sexes.

The Mining Act, 1970, contained a provision in Part IX, which prohibited a female person from being employed on underground work in any mine, except in limited circumstances. The Occupational Health and Safety Act, 1978, repealed Part IX of the Mining Act, and thus made it legal for women in Ontario to work underground in mining operations.

Article 11.2: In order to prevent discrimination against women on the grounds of marriage or maternity and to ensure their effective right to work, States Parties shall take appropriate measures:

(a): To prohibit, subject to the imposition of sanctions, dismissal on the grounds of pregnancy or of maternity leave and discrimination in dismissals on the basis of marital status;

(b): To introduce maternity leave with pay or with comparable social benefits without loss of former employment, seniority or social allowances;

Nature of Activity:

1. Legislation, collective agreements

Under Ontario's Employment Standards Act any woman who is eligible for pregnancy leave cannot be dismissed from her job solely because of pregnancy. The Ontario Human Rights Code prohibits discrimination in employment on thirteen grounds, including marital status.

The Employment Standards Act stipulates that upon her return from a pregnancy leave of absence a woman must be reinstated in the same or comparable position that she held prior to her leave, at the same salary, with no loss of benefits or seniority accrued to the start of her leave.

The Act does not provide for pregnancy leave with pay. However, across Canada there is a small, but increasing number of collective agreements which include provisions for some form of paid leave. The most recent of these is an agreement between the Government of Ontario and the Ontario Public Service Employees Union, under which the government will supplement the employee's unemployment insurance maternity benefits during the 15 week period for which benefits, at 60 per cent of salary, are available, and will also pay the employee's full wages during the two week waiting period required prior to the commencement of umemployment insurance benefits payment.

Article 11.2(c): To encourage the provision of the necessary supporting social services to enable parents to combine family obligations with work responsibilities and participation in public life, in particular through promoting the establishment and development of a network of childcare facilities;

Nature of Activity:

1. Family and Child Support Programs

The Government of Ontario recognizes that a number of barriers exist which make it difficult for women on social assistance to acquire and maintain employment, or take advantage of training programs. These include difficulties in finding suitable child care arrangements; low level of skills and educational preparation; lack of self confidence; inadequacy and inappropriateness of the present network of education/training/placement programs for this group; and scarcity of job opportunities that would enable them to earn sufficient income to support the family.

Subsidized day care, a range of social support services and training programs, and financial assistance for the transition period, are all essential to help overcome these barriers, and to provide incentives for sole-support mothers on social assistance to seek employment.

The Ministry of Community and Social Services has developed and is continuing to develop programs which have the potential to provide a comprehensive network of integrated services to assist this group. The programs are as follows:

a) Employment-Related Programs for Mothers on FBA

There are 11 programs for sole-support mothers on FBA and General Welfare Assistance in the major urban centres which provide vocational counselling and employment preparation through the Ministry local offices.

In addition, the Ministry of Community and Social Services provides partial funding for six projects run by voluntary agencies which provide similar services.

These programs serve over 2,000 women each year, one-third to one-half finding employment over a twelve month period, and about one-third moving into some form of employment training or education program.

On May 31, 1982, the Ministry announced that further employment support initiatives will be undertaken through the establishment in eleven municipalities of Pilot Projects for the provision of employment supports to social assistance recipients who are single parents and non-disabled spouses of disabled FBA recipients.

### b) Federal-Provincial Sole-Support Mothers Project

Established in 1976, this is operated and funded jointly by the Ministry of Community and Social Services and Canada Employment and Immigration to help FBA/GWA (General Welfare Assistance) sole-support mothers toward financial independence by assessment and referral services, employment orientation courses, and access to training and upgrading.

### c) Placement Services/Co-Location Programs

A program of co-location was established in early 1970 to attempt to more effectively deliver employment services to welfare recipients in Ontario. Municipal welfare workers are located in approximately thirty. Canada Employment Centres across Ontario.

### d) The Work Incentive Program (WIN)

In December, 1979, the Government introduced a program to assist Family Benefits Allowance (FBA) recipients who wish to become self-supporting by working full-time. This program allows those entering full-time employment to:

- continue to receive income-tested financial assistance for up to two years as a supplement to full-time income (eg. $200 per month in the case of a sole-support mother with three children earning $675 per month or less);
- continue to receive the fringe benefits provided to FBA recipients for up to three months after entitlement to a WIN allowance has ceased (i.e. health insurance, drugs, basic dental care, eye glasses); and
- priority return to the regular FBA program should full-time employment cease.

### e) Improvements to the Treatment of Part-Time Earnings under FBA

In conjunction with the WIN program, the reduction rate on earnings over the exempted levels ($140 per month) has been reduced from 75 per cent to 50 per cent on the next $100 of monthly earnings.

### f) Parental Support Work Program (PSW)

This program provides the services of skilled counsellors to mothers seeking maintenance from their husbands through the courts thus providing them with an on-going financial resource when they enter employment independent of employment income.

g) Day Care Funding

Through municipalities, Indian Bands and approved corporations, the province provides funding for subsidized day care. Provincial expenditures for subsidized day care will increase in 1982/83 by 25.2 per cent over 1981/82 to 75.3M. This represents a five-year expenditure growth of 118.8 per cent over the base year (77/78) expenditure of $34M. Priority of access to subsidized spaces is given to families with children with special needs, working sole-support mothers, and low income families.

Article 11.2(d): To provide special protection to women during pregnancy in types of work proved to be harmful to them.

Nature of Activity:

1. Legislation and Collective Agreements

(See description of provisions under The Occupational Health and Safety Act, p. 22 & 23.)

A recent arbitration award made to employees of the provincial government provides protection to operators of video display terminals, the majority of whom are women. The protective measures include rest periods, eye examinations, and transfer to alternate work during a pregnancy.

Article 11.3: Protective legislation relating to matters covered in this article shall be reviewed periodically in the light of scientific and technological knowledge and shall be revised, repealed or extended as necessary.

All legislation which directly concerns workers in Ontario, e.g. The Occupational Health and Safety Act, The Employment Standards Act, The Ontario Human Rights Code, The Workmen's Compensation Act, The Labour Relations Act, is reviewed regularly in reference to new social, economic, and scientific developments.

## HEALTH: ARTICLE 12

Article 12.1: States Parties shall take all appropriate measures to eliminate discrimination against women in the field of health care in order to ensure, on a basis of equality of men and women, access to health care services, including those related to family planning.

12.2: Notwithstanding the provisions of paragraph 1 of this article, States Parties shall ensure to women appropriate services in connection with pregnancy, confinement and the post-natal period, granting free services where necessary, as well as adequate nutrition during pregnancy and lactation.

### Nature of Activity:

1. Legislation

The Health Protection and Promotion Act, 1983 received Royal Assent on February 23, 1983. The purpose of the Act is to consolidate and update the structure of public health in this Province to better serve Ontarians in the future. The essence of the new legislation is the relevance of prevention as a key strategy in the provision of public health services.

The Act will put in place a set of standard services that will be available throughout the Province. These include:

- Family Health, including: provision of counselling services, establishment of family planning services, programmes to identify pregnant women who are in high-risk health categories, provision of health services to pregnant women in high-risk health categories.
- Identification of nutrition services needed, including provision of consulting and educational services.

2. Public Health Programs

Public Health units currently provide pre and post natal care and offer courses in childbirth education which stress all aspects of preparation for childbirth.

The Ministry of Health provides 100% financial support to a Family Planning program through local public health units. Similarly nutrition programs are in place and being expanded.

These public health services supplement existing physician and hospital services.

### 3. Insurance program

All residents of Ontario, regardless of age, sex, state of health or financial means are entitled to participate in the Ontario Health Insurance Plan, which is a comprehensive government-sponsored plan of health insurance. It provides a wide scope of benefits for physicians' and hospital services. Included in the services covered under the plan are those required by women during pregnancy. Additional benefits are also provided for the services of certain other health practitioners such as physiotherapists.

## ECONOMIC & SOCIAL LIFE - OTHER: ARTICLE 13

Article 13: States Parties shall take all appropriate measures to eliminate discrimination against women in other areas of economic and social life in order to ensure, on a basis of equality of men and women, the same rights, in particular;

13(a): The right to family benefits;

### Nature of Activity:

1. Policy

On September 14, 1981, the Government announced changes to Family Benefits to ensure that disabled wives, with husbands who are not disabled or permanently unemployable, are eligible for social assistance.

On July 1, 1982, eligibility to social assistance was extended to all sole-support parents regardless of sex, who meet the needs test criteria.

Article 13(b): The right to bank loans, mortgages and other forms of financial credit;

### Nature of Activity:

1. Credit Guidelines

In an effort to ensure that men and women are judged on an equal basis when applying for credit, the Ministry of Consumer and Commercial Relations, in concert with major credit grantors, developed a list of Equal Credit Opportunity Guidelines. Instituted in 1976, the Guidelines were not enshrined in legislation, but rather are adhered to on a voluntary basis.

The Guidelines consist of two major general statements plus twelve operating principles. The statements read as follows:

1. "A married woman shall be granted credit in her own name if her credit qualifications, including her earnings or separate property are such that a man possessing the same credit qualifications and property or earnings would receive credit."

2. "An unmarried woman shall be granted credit if her credit qualifications, property or earnings are such

> that a man possessing the same credit qualifications, property or earnings would receive credit."

To expand upon the general statements above, creditors shall continue to conduct their business affairs, holding to these principles:

1. Hold women and men to the same standards in determining credit worthiness.

2. Extend credit to a credit worthy married women in her own name.

3. Refrain from refusing to extend credit to a newly separated, divorced or widowed woman solely because of a change in her marital status.

4. Apply the same standards to the extending of credit, including mortgage transaction, regardless of which spouse is the primary family supporter.

5. Refrain from requesting or using information about family planning in evaluating credit applications.

6. Observe the same standards in requiring credit data on the spouse regardless of the sex of the applicant.

7. Change in marital status shall not be the sole consideration in requiring reapplication for previously issued credit cards or the renegotiation of the existing credit arrangements.

8. Consider a spouse's income, if necessary, when a couple applies for credit.

9. Consider alimony and child support as a source of income.

10. In appraising a women's credit worthiness, consider her credit history when single or married.

11. An individual's credit rating shall not be altered soley on the basis of the credit rating of the spouse.

12. A credit reporting agency shall, upon request of a spouse, keep a separate file on the husband and wife."

Article 13(c): The right to participate in recreational activities, sports and all aspects of cultural life.

Nature of Activity;

1. Legislation, program

The Act to establish the Ministry of Citizenship and Culture, 1982, mandates the Ministry to encourage full, equal and responsible citizenship among the residents of Ontario, and to ensure the creative and participatory nature of cultural life.

As part of the effort to insure that all residents of the province share in the rights, privileges, and responsibilities of full and equal citizenship, two programs within the Ministry place a special emphasis on encouraging the full participation of immigrants and of people from diverse ethnocultural backgrounds, in the social, cultural, and political life of the province. These are the Newcomer Services Branch and the Citizenship Development Branch, (respectively).

The Newcomer Services Branch contributes to the cultural as well as social and linguistic integration of immigrants. This objective is achieved by assisting intermediaries and participating directly in the provision of settlement services and language/orientation/citizenship training for immigrants.

Branch staff, through liaison activities with local educational institutions and community agencies, encourage the establishment/expansion of settlement services and language classes, highlighting the needs of immigrant women.

The Branch supports programs which specifically focus on preparing immigrant woman to enter the workforce or to change employment.

The Branch also chairs a provincial interministerial committee which monitors general settlement issues relating to Indo-Chinese refugees. A specific concern of this committee is the mental/emotional health of refugee women.

Special focus language training is facilitated through the development of materials and resources, and the provision of teacher training and consultation, and is supported through grant programs. A large number of the participants are women in such programs as English as a Second Language (ESL)/literacy, bilingual classes (programs where the teacher provides information to the learner in the first language and bases the English language instruction on the orientation content), and English in the Workplace.

The Newcomer Language/Orientation Classes grants program provides support for community based language classes. These programs are generally part-time, are held during the day in convenient locations, often include a childcare component, and give the participants an orientation to all aspects of life in Ontario. The 1981/82 attendance was 7,830; the majority of the participants were women.

Over 1000 volunteers, the majority being women, participate as volunteers in the community classes for adults and preschoolers. The Branch provides teacher training and materials. This volunteer involvement promotes cultural understanding, and also enables many of the volunteers to move into paid teaching positions.

Publications produced by the Newcomer Services Branch include the Newcomers Guide, a multilingual publication which provides an outline of resources and services available to newcomers in Ontario, and which contains a chapter specifically devoted to information for immigrant women. Newcomer News is a graded English language newspaper, and often carries articles specifically addressing the informational needs of immigrant women. When developing material or consulting with other agencies regarding materials, special attention is paid to content, both orientation information and quality of substance, in order to reflect the issues related to women.

The objectives of the Citizenship Development Branch are:

1) To ensure all residents of the province have equal access to the services of the Ontario Government irrespective of cultural differences.

2) To promote a sense of belonging and community among all residents of Ontario by:

   - encouraging and fostering active participation in the social, cultural and political life of the province and removing cultural barriers to that participation;

   - heightening public awareness and recognition of the multicultural character of Ontario's population and the potential of every ethnocultural group to contribute to the province's well-being; and

- promoting positive social and cultural interaction among individuals of diverse ethnocultural backgrounds.

3) To enhance the participatory role of individuals in community life through the provision of information on how to participate, training to develop community leadership skills, and training in organizational effectiveness for voluntary organizations and agencies working within the program areas of the Ministry of Citizenship and Culture.

Program activities of the Branch are not specifically targeted to women. However, women play a major role in the multicultural, leadership and volunteer programs assisted through Branch resources, in the capacity of both deliverers and recipients of service. For example, under its Grants Program, the Branch supports the Rexdale Immigrant Women's Project. This volunteer community association has been financially assisted to produce a videotape on immigrant women's experiences as a tool for community educational purposes, outreach and individual skill development. In addition, leadership training sessions for immigrant women of diverse ethnocultural backgrounds will be offered for leaders of orientation groups and new board members, and a recruitment and training program for volunteers will be initiated. Another example is a one-year intercultural training program instituted by the Young Women's Christian Association for its Toronto staff and volunteers. A training manual will be produced as part of this project for use in other voluntary agencies.

The Ministry of Tourism and Recreation encourages the use and establishment of tourist and recreational facilities with regard to the overriding principle that the services provided are to be universally available to all individuals regardless of sex.

The Sports and Fitness Division of the Ministry is presently collecting statistics on female fitness in order to identify and assess the special needs women may have. Awareness campaigns on the subject of fitness embody specific material directed at women, particularly young mothers. The Ministry also works with the Ministry of Education to develop initiatives for improved fitness, especially at the elementary school level.

Most of the Ministry's support for amateur sport development is channeled through provincial sport associations. Although a number of these groups are constituted to restrict participation to one sex (that being male in all but a few cases), efforts are being made to raise awareness of the need to remove such barriers, particularly where ability would permit females to participate. The Sports and Fitness Branch is conducting a study of female involvement in amateur sport, both in its own direct programs as well as at all levels of its provincial client groups.

In addition, on April 8, 1982, a Task Force to study the equal treatment of the sexes in athletic activities was established by Order in Council.

## RURAL WOMEN: ARTICLE 14

Article 14.1: States Parties shall take into account the particular problems faced by rural women and the significant roles which rural women play in the economic survival of their families, including their work in the non-monetized sectors of the economy, and shall take all appropriate measures to ensure the application of the provisions of this Convention to women in rural areas.

14.2: States Parties shall take all appropriate measures to eliminate discrimination against women in rural areas in order to ensure, on a basis of equality of men and women, that they participate in and benefit from rural development and, in particular, shall ensure to such women the right: (sub-sections (a) - (h)).

### Nature of Activity:

1. Policy, program

As a general principle, all education, health, family planning, and social security policies and programs apply equally to rural and non rural women.

In recognition of the different needs that exist within rural communities, the Ministry of Agriculture and Food, through its Rural Organizations and Services Branch, delivers several programs which encompass rural leadership development, youth development, and home economics education.

The home economics programs of the Branch involve a high level of participation by women. This program area focusses on the development of the individual and the community, and includes responsibility for consumer services in the areas of foods and nutrition, clothing and textiles, home management and consumer information, as well as for leadership training and community development for volunteer leaders and members of the Federated Women's Institutes for Ontario and the 4-H Homemaking Clubs. In addition, courses are provided which are designed to meet the needs of young and beginning rural families. Indications are that the number of women participating in farm management courses is increasing.

Article 15: States Parties shall accord to women equality with men before the law.

Nature of Activity:

1. Legislation

The Ontario Human Rights Code asserts in its preamble that "recognition of the inherent dignity and the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world"; on this basis it affirms that "it is public policy in Ontario to recognize the dignity and worth of every person and to provide for equal rights and opportunities without discrimination that is contrary to law".

The Human Rights Code guarantees individuals rights to equal treatment with respect to services, goods and facilities, accommodation, employment and membership in any trade union, trade or occupational association or self-governing profession, without discrimination on a number of grounds, including sex, marital status, and family status. The Code defines marital status as being "the status of being married, single, widowed, divorced or separated and includes the status of living with a person of the opposite sex in a conjugal relationship outside marriage"; family status is defined as "the status of being in a parent and child relationship". The Code also prohibits harassment in the occupation of accommodation, and in the workplace, because of sex.

The Code states that no person shall infringe or do, directly or indirectly, anything that infringes these rights. It empowers a Board of Inquiry to remedy such infringement. The Code goes further to provide that a right is infringed where a requirement, qualification or consideration is imposed that is not discrimination on a prohibited ground but that would result in the exclusion, qualification or preference of a group of persons identified by a prohibited ground of discrimination unless the restriction is reasonable and bona fide in the circumstances, or is specifically permitted under the Human Rights Code. Thus, it is not permissible to maintain height or weight restrictions, unrelated to the needs of a particular job, if the net effect of these restrictions would be to exclude women, or a particular ethnic minority from access to such employment.

From 1984 onwards, the Human Rights Code will have primacy over other provincial legislation, unless the provincial legislature specifically exempts the legislation from the operation of the

Code. It is anticipated that the effect of this primacy provision, together with the sex equality provisions of the Canadian Charter of Rights and Freedoms, will be to eliminate all residual discriminatory provisions from Ontario legislation.

Section 15(1) of the Canadian Charter of Rights and Freedoms, which applies in Ontario as a result of section 32(1) provides that

"Every individual is equal before and under the law and has the right to the equal protection and equal benefit of the law without discrimination and, in particular, without discrimination based on race, national or ethnic origin, colour, religion, sex, age or mental or physical disability."

Although section 32(2) delays the coming into effect of this provision for three years, section 28 applies immediately. This section states that "notwithstanding anything in this Charter, the rights and freedoms referred to in it are guaranteed equally to male and female persons".

A systematic review is currently being conducted of all Ontario legislation to determine which violates the provisions of the Code and the Charter. Ontario is committed as a matter of express legislation to according women and men equality before the law.

Article 15(2): States Parties shall accord to women, in civil matters, a legal capacity identical to that of men and the same opportunities to exercise that capacity. They shall in particular give women equal rights to conclude contracts and to administer property and treat them equally in all stages of procedure in courts and tribunals.

Article 15(3): States Parties agree that all contract and all other private instruments of any kind with a legal effect which is directed at restricting the legal capacity of women shall be deemed null and void.

Nature of Activity:

1. Legislation

For almost a hundred years, women in Ontario have had the same capacity to enter into contracts as their husbands. In 1978, the passage of the Family Law Reform Act set forth this status in clear and unambiguous terms:

Section 65(1): "For all purposes of the law of Ontario, a married man has a legal personality that is independent, separate and distinct from that of his wife and a married woman has a legal personality that is independent, separate and distinct from that of her husband."

Section 65(2): "A married person has and shall be accorded legal capacity for all purposes and in all respects as if such person were an unmarried person."

The purpose of these sections is stated in subsection (4) to make the same law apply and apply equally, to married men and married women and to remove any difference therein resulting from any common law rule or doctrine. Ontario law thus guarantees equality in legal capacity as required by Article 15(2) and equal rights with respect to credit, contracts, property holding and civil procedure.

Article 15(4): States Parties shall accord to men and women the same rights with regard to the law relating to the movement of persons and the freedom to choose their residence and domicile.

## Nature of Activity:

### 1. Legislation

The mobility rights guaranteed in the Canadian Charter of Rights and Freedoms apply equally to male and female persons, as a result of section 28. Section 6 which deals with mobility rights states that

> 6.(1) Every citizen of Canada has the right to enter, remain in and leave Canada.
>
> (2) Every citizen of Canada and every person who has the status of a permanent resident of Canada has the right
>
> (a) to move to and take up residence in any province; and
>
> (b) to pursue the gaining of a livelihood in any province.
>
> (3) The rights specified in subsection (2) are subject to
>
> (a) any laws or practices of general application in force in a province other than those that discriminate among persons primarily on the basis of province of present or previous residence; and
>
> (b) any laws providing for reasonable residency requirements as a qualification for the receipt of publicly provided social services.
>
> (4) Subsections (2) and (3) do not preclude any law, program or activity that has as its object the amelioration in a province of conditions of individuals in that province who are socially or economically disadvantaged if the rate of employment in that province is below the rate of employment in Canada.

As for domicile, section 65(3)(c) of the Family Law Reform Act makes the same rules applicable for determining the domicile of a married woman as for a married man. A later section of the Act deals with domicile of children who are below the age of majority. If they are or have been married, the normal adult rules for determining domicile apply. If not a series of principles come into play. Firstly, the common domicile of both parents will be the domicile of the child. Secondly, if a child habitually resides only with one parent, the child's domicile will be that of that parent. If neither of these rules determines the question of domicile, an occurrence which will be rare in the extreme, the presumption is that the child takes its father's domicile. If this presumption does not determine the question, the child takes the mother's domicile.

Sources: Canadian Charter of Rights and Freedoms, 1982
Family Law Reform Act R.S.O. 1980 c. 152
Ontario Human Rights Code S.O. 1980, c.53

Article 16:

1. States Parties shall take all appropriate measures to eliminate discrimination against women in all matters relating to marriage and family relations and in particular shall ensure, on a basis of equality of men and women:

(a) The same right to enter into marriage;

(b) The same right freely to choose a spouse and to enter into marriage only with their free and full consent;

(c) The same rights and responsibilities during marriage and at its dissolution;

(d) The same rights and responsibilities as parents, irrespective of their marital status, in matters relating to their children. In all cases the interests of the children shall be paramount;

(e) The same rights to decide freely and responsibly on the number and spacing of their children and to have access to the information, education and means to enable them to exercise these rights;

(f) The same rights and responsibilities with regard to guardianship, wardship, trusteeship and adoption of children, or similar institutions where these concepts exist in national legislation. In all cases the interest of the children shall be paramount;

(g) The same personal rights as husband and wife, including the right to choose a family name, a profession and an occupation;

(h) The same rights for both spouses in respect of the ownership, acquisition, management, administration, enjoyment and disposition of property, whether free of charge or for a valuable consideration.

2. The betrothal and the marriage of a child shall have no legal effect and all necessary action, including legislation, shall be taken to specify a minimum age for marriage and to make the registration of marriages in an official registry compulsory.

Nature of Activity:

1. Legislation

In order to provide a full and coherent response to the contents of Article 16, the relevant legislation that governs these matters in Ontario will be outlined below, beginning with reform legislation in the family law area and then turning to some of the other applicable statutes.

Family Law Reform Legislation in Ontario

Following a lengthy process of public consultation and legislative debate, Ontario's Family Law Reform Act came into force on March 31, 1978. This Act was an important part of a package of reforms in the family law area, which included as well the Children's Law Reform Act, the Succession Law Reform Act and changes to the Marriage Act.

The Family Law Reform Act set out new rules concerning family property and how it is divided between husband and wife if a marriage breaks down; support obligations between spouses, couples living together outside marriage, and parents and children; the matrimonial home which is singled out for special treatment; and finally domestic contracts that is, agreements between spouses or couples living outside marriage concerning their property or support obligations. The Act provides for a dependent's claim for damages and abolishes a number of common law actions.

All the provisions of the Act draw special significance from the preamble to the Act which formally recognizes "the equal position of spouses as individuals within marriage" and "marriage as a form of partnership". The Act sets out "to encourage and strengthen the role of the family and society", but recognizes that it is necessary "to provide in law for the orderly and equitable settlement of the affairs of the spouses upon the breakdown of the partnership; and to provide for other mutual obligations in family relationships, including the equitable sharing by parents of responsibility for their children". This preamble declares the basic principles which are to give shape to the Act as a whole, and to guide the courts in the difficult task of interpreting individual sections.

Probably the most far-reaching provisions in the Act are those which concern the division of family property. In order to understand the tremendous progress that has been made in this new law, it is helpful to focus briefly on the former law. Under the old law of family property, a spouse's earnings and property bought from those earnings belonged to that spouse.

They were not subject to sharing with the other spouse if the marriage broke down. In the traditional type of marriage, which was assumed as the paradigm, the husband is the bread winner and the wife is the homemaker who manages the household and cares for the children.

Under the old law, the wife often ended up with nothing because she had neither earnings nor savings of her own out of which she could buy property. Her contribution as a homemaker was largely unrecognized because it could not be specifically and directly related to the acquisition of property. This result has generally been recognized as unfair, since a homemaker undertakes important managerial skills and performs tasks which relieve the other spouse from the time and attention required to look after the physical needs of family members.

In the reform legislation, the Government adopted the "family assets" system of property rights, which provides for the equal division of core family property. It recognizes that "inherent in the marital relationship there is a joint contribution, whether financial or otherwise, by the spouses" to the responsibilities of child care, household management and financial provision which entitle each spouse to a basic equal division of the family assets. During marriage, each spouse is free to acquire and dispose of property free from any claim by the other spouse. The only exception to this rule is the family home, which will be discussed shortly.

If the marriage breaks down, each spouse is entitled to half the family assets. These are the family home, and the property which is ordinarily used or enjoyed by both spouses or one or more of their children while the spouses living together, for shelter or transportation or for household, educational, recreational, social and aesthetic purposes. For most families, this will include the family home, cottage, car, furniture, and other household items: it will also encompass household bank accounts, but not business property.

While setting out the basic rule of equal sharing, the Act also recognizes that in some situations the strict application of these principles may lead to injustice. Thus it allows a spouse to apply to court for an order dividing family assets unequally in appropriate cases; the court may also divide property which is not a family asset, such as business property or private investments. This deals with situations where, for example, the marriage lasted only three months, or one spouse brought all of the property into a second marriage, and other cases of that nature.

Quite apart from this provision, a spouse or a former spouse is entitled to an interest in property other than a family asset, such as a business asset, in which the other has or had an interest, when it can be shown that the spouse has contributed work, money or money's worth to the property. In addition, a homemaker spouse may obtain a share of business assets if the efforts of that spouse in the home have freed up the other spouse and enabled him or her to acquire non-family assets. Thus a wife's contribution as a homemaker and mother will no longer be taken for granted and undervalued when a marriage breaks down. A homemaker's skills can give a husband considerably more freedom to advance in his career outside the home. The Act recognizes this very significant contribution.

The Act also states, for the first time in Canadian law, that child care, household management and financial provision are the joint responsibilities of both spouses. It eliminates from law any formal presumptions about the respective sex roles within marriage. As marriage is a partnership, so the duties within marriage must be shared.

It was mentioned earlier that there are special rules for the family home. During marriage, each spouse is equally entitled to possession of the family home, which can include a rented flat or apartment, or a mobile home. Regardless of this right to possession, and regardless of who may own the home, a Court can order that one spouse is to have exclusive possession of the home.

The Act gives special protection to the family home, as the key shelter for the family. The consent of both spouses is required to sell, mortgage or lease the family home, no matter which spouse holds title. Should a spouse try to sell the home behind the other's back, a Court can set aside the sale, order the spouse to provide other comparable accommodation or divide the sale price as it thinks fit. The practical result of this part of the law is to ensure that all major decisions concerning the family home will be made jointly by both spouses.

A lengthy section of the Act deals with support obligations. It unifies and modernizes the law of support, and discards a great deal of old unfair law concerning the welfare of the family. In the past, husbands alone were responsible for the suppport of their wives and children, and wives were completely exempt from any responsibility for supporting themselves, their husbands and their children. This was based on the old assumption that women were always dependent on their husband for financial security and could not be expected to assume any of the burden themselves. Under the Family Law Reform Act these suspect assumptions are consigned to the pages of social history. The

Act is premised on the actual circumstances of need within the family.

The obligation to support falls on spouses, parents and children. A parent is duty-bound to support an unmarried child under eighteen; likewise, a child who is not a minor is also obliged to support a parent who has cared for or supported him. Both parent and child are broadly defined, so as to encompass the situation where children are treated as children of a family. Foster children, however, are not included. Both husbands and wives now have a responsibility to support themselves as well as their spouse. This means that spouses will be expected to fend for themselves as soon as reasonably possible after separation.

Of course, this does not mean that couples who are happily living together must each be out in the labour force earning a salary. If a couple chooses to have one spouse work outside the home while the other works full-time inside the home, that is for them to decide. However, if the marriage later breaks down, each of the spouses has an obligation to do what is reasonably possible in all the circumstances to fend for himself or herself. The court may ask one spouse to undertake a period of job retraining to this end.

The law draws no distinction on the basis of sex, so it is now possible for a husband to obtain support from his wife, or a wife to obtain support from her husband. Whether support will be ordered will depend on the means and needs of each spouse. The support rules do no discriminate against nor do they favour either spouse, but rather are based on the economic reality of the family at the time of spouses' separation.

Support orders are based on need and ability to pay. Under the old law, a wife could claim support from her husband in court only if she could show that he had been guilty of adultery, cruelty or desertion. Conversely, a husband was not obliged to pay a penny of support to his wife if he could show that she had been guilty of adultery, cruelty or desertion. A single isolated act constituted the entitlement to support or a complete defence to a claim for support.

The Act does away with this type of inquisition, leading the Court to consider the necessity for the Court to indulge in need and ability to pay, taking into account such factors as a contribution by a dependent to the realization of a career potential of the other spouse and the domestic responsibilities assumed by the dependent. The Act thus recognizes the value of contributions made inside and outside the home by both partners of the relationship. The obligation to provide support exists regardless of the conduct of the partners.

However, to deal with extreme cases, a Court will be able to consider a course of conduct that is so unconscionable as to constitute an obvious and gross repudiation of the relationship, in determining the amount of support to be provided. This is designed to cover cases such as that of a drunken husband who loses his job, beats his wife and children and drives them out of the home, and then claims support from them because he is unable to work. In the five years since the legislation came into force no one has been denied support on the basis of unconscionable conduct. So-called common law spouses are entitled to some of the rights under the Family Law Reform Act as well. This is the case in respect of support, but not in respect of property rights. Common law spouses do not have any property rights under the Act. However, if a man and woman lived together outside marriage for five years, or if they have a child, they have the same support rights as do married persons under the Act. This means, of course, that the person claiming support must demonstrate a need for it which he or she is unable to meet on his or her own.

While the Act does create a comprehensive scheme of property sharing and support obligations which is to apply to all married couples, flexibility is also added to the system by allowing couples to opt out of the legislation and create their own property and support arrangements by written contract. If they feel that the property sharing rules are too generous, or not generous enough, if they would like to define how they are going to meet their support obligations, or if they want to provide for any other matter concerning their respective rights and duties, they are free to enter into a domestic contract.

The Act recognizes both marriage contracts and separation agreements, as well as cohabitation agreements between unmarried couples. While any contract will be legally binding, the Act does place certain restrictions on the extent to which somebody can opt out of all their statutory rights. For example, the general court jurisdiction to protect the interests of children is preserved; likewise, no spouse can contract out of their rights concerning the matrimonial home.

The Act abolishes the unity of legal personality, the doctrine that held that husband and wife were to be regarded as a single legal entity. It also removes any legal disabilities imposed on married women.

Although no other recent act goes as far as The Family Law Reform Act to affect the rights and status of family members, a number of other acts, which came into force at the same time are also noteworthy. The Succession Law Reform Act makes a number of reforms to the law of wills and succession, and consolidates all the laws relating to estates within one act. It equalizes the rights and obligations of husbands and wives at death. In addition, it establishes the critical principle that all children will be treated equally in estate matters, whether they have been born inside or outside marriage.

The Succession Law Reforms Act also changes the Ontario law concerning succession for those who die without leaving a will. In this situation, the surviving spouse is entitled to at least the first $75,000. from the estate, and if there are no children, to all the estate. The Act sets out special rules for division of the estate between spouse and children.

If the will provides inadequate support for a dependent family member, or if there is no will, and the law does not make adequate provision for a dependent family member, he or she can apply to a court for a greater share of the estate. Just as the support obligations part of The Family Law Reform Act extends to spouses who live together outside marriage for at least five years, or in a fairly permanent relationship where a child is involved, so these common law spouses can apply for support on death. In addition, a child born outside marriage may also be eligible to claim support from the estate in the same way as a child born within marriage. The class of family member who can make claims includes a spouse, or a former spouse, a common law spouse, parent, child, brother or sister.

The third act in the family law reform package was The Children's Law Reform Act. This Act did away with the status of illegitimacy, declaring that for all purposes the legal status of children should be equal, regardless of whether they were born within or outside marriage. Under the old law, some children were deprived of their legal rights simply because their parents did not marry. In Ontario, from March 31, 1978, there is no such thing as an illegitimate child. From that date, a child's rights depend on the simple fact of a parent-child blood relationship; this may seem like the only reasonable and sensible position to take, but it must be noted that Ontario is one of the few jurisdictions in the world where the status of illegitimacy has been abolished.

The fourth act in the family law reform package is the Marriage Act, 1977. Under the new law, the minimum age for marriage has been raised to 18 years which is the age of majority, or 16 years with parental consent. Under the old law, only the father's consent was required before a marriage could take place for an under-age individual. Now the consent of both parents is necessary, whenever possible. A person under 16 may not enter into a ceremony to marry in Ontario. In order to make marriage ceremonies available without delay, classes of public individuals who can perform civil ceremonies have been expanded.

The most recently enacted part of the family law reform package is the Children's Law Reform Amendment Act, passed in 1982. This Act deals with matters pertaining to child custody, access and guardianship.

The Children's Law Reform Amendment Act does not discriminate against either parent on the basis of sex, and operates under the stated basic premise of equal entitlement of a child's father and mother to custody of the child and guardianship of the child's property. The Act further states that the merits of a custody or access application shall be determined on the basis of the best interests of the child.

## Other Relevant Legislation

### Change of Name:

The existing Ontario legislation regarding the choice of surname upon marriage does not treat men and women equally. As the Change of Name Act stands today, a woman may take the surname of her husband upon her marriage, with no court formalities, while a man may not adopt his wife's surname without court involvement.

In addition, the Vital Statistics Act provides a basic rule that the surname of a child born to a married woman is to be registered as the husband's surname. There are also provisions for a joint request by husband and wife to register a surname for the child which combines the parents' surnames.

In 1975, the Ontario Law Reform Commission published a study paper entitled A Woman's Name. The paper was designed to focus public attention on the difficulties faced by married women wishing to depart from the traditional practice of assuming their husband's name upon marriage as well as couples wishing to give their children a different name from the traditional father's name. The issue was both symbolic and of intense practical importance to many women who faced difficulties, and occasionally discrimination, if they wished to use their birth name after marriage.

Considerable public debate was generated by the Law Reform Commission's study paper, and the views expressed were taken into account when the Commission issued its Report on Changes of

*Name* in October, 1976. This report recommended greater freedom of choice in assuming a surname for both men and women at marriage, and expanded the range of surnames that could be given to a child at birth. In addition, the report made a number of recommendations to streamline and simplify the formal process of name change in the courts.

The government of Ontario has publicly committed itself to making changes in Ontario law concerning names, recognizing that current legislation can be inflexible and cumbersome. Changes in the legislation can be expected and are under study and may be introduced in the near future.

## Religious Faith:

The *Child Welfare Act* has a provision which establishes a presumption that a child's religious faith is that of the child's father, unless a written agreement between the child's parents shows the contrary.

Where a child is born outside of marriage, the child is deemed to have the same religious faith as the mother of the child.

The implementation of the recent Canadian Charter of Rights and Freedoms and the Ontario Human Rights Code is expected to adjust unequal treatment in these provisions of the *Child Welfare Act*.

Even though the *Family Law Reform Act* and other reform legislation has accomplished much in the way of a statutory codification of principles of equality and non-discrimination against women, there remain some sections of various Acts which need revision. Some have been mentioned above, and a few others remain, such as section 13 of *Fraudulent Debtors Arrest Act*, which contains an exemption applicable to married women but not to married men. Such provisions are being systematically examined and will be eliminated by statute as part of the overall re-examination of legislation undertaken to prepare for the Charter and the Human Rights Code.

## Conclusion

As the above review of the relevant legislation in this province has shown, Ontario is in broad conformity with the contents of Articles 15 and 16.

The package of reform legislation which has been enacted in recent years manifests a great departure from outmoded attitudes and a full commitment to the equal status of women in Ontario.

As the Canadian Charter of Rights and Freedoms and the Ontario Human Rights Code take full effect, the last few remaining adjustments to legislation will be made, and all statutory provisions in this province will reflect Ontario's commitment to non-discrimination.

On December 21, 1982 an extensive review of the Family Law Reform Act was announced. After almost five years' experience with the Act, the need was seen to consider whether there might be some improvements indicated by the passage of time. Written submissions have been invited from any interested individuals or groups on any aspect they feel is in need of amendment, with a view to incorporating meritorious suggestions in a Bill to be brought before the Legislature by March 1984. Areas of particular concern include: the adequacy of provisions for the sharing of non-family assets, the definition of family assets, the protection for the family home, and problems related to the support provisions of the Act.

Sources:

Canadian Charter of Rights and Freedoms, 1982
Family Law Reform Act RSO 1980, c.152
Children's Law Reform Act RSO 1980 c.68
Marriage Act RSO 1980 c.256
Succession Law Reform Act RSO 1980 c.488
Vital Statistics Act RSO 1980 c.524
Child Welfare Act RSO 1980 c.66

Government of Quebec
Department of Intergovernmental Affairs
(Ministère des Affaires
intergouvernementales)

# CONVENTION ON THE ELIMINATION OF ALL FORMS OF DISCRIMINATION AGAINST WOMEN

## REPORT OF THE GOVERNMENT OF QUEBEC IN CONFORMITY WITH ARTICLE 18 OF THE CONVENTION

JANUARY 1983

1225, Place Georges V, Québec G1R 4Z7

(Original submitted in French
Translated into English
by the Government of Canada)

The Government of Quebec ratified, in its domestic law, the Convention on the Elimination of all Forms of Discrimination against Women on October 20, 1981 (Decree No 2894-81, Appendix 1).

## PART I

### Article 1

For the purposes of the present Convention, the term "discrimination against women" shall mean any distinction, exclusion or restriction made on the basis of sex which has the effect or purpose of impairing or nullifying the recognition, enjoyment or exercise by women, irrespective of their marital status, on a basis of equality of men and women, of human rights and fundamental freedoms in the political, economic, social, cultural, civil or any other field.

In Quebec law, the definition of the term "discrimination" is to be found in Section 10 of the Charter of Human Rights and Freedoms (R.S.Q., Chap. C-12) (Appendix 2):

> "Every person has a right to full and equal recognition and exercise of his human rights and freedoms, without distinction, exclusion or preference based on race, colour, sex, sexual orientation, civil status, religion, political convictions, language, ethnic or national origin or social condition, a handicap or the use of any means to palliate a handicap.
>
> Discrimination exists where such a distinction, exclusion or preference has the effect of nullifying or impairing such right."

In its Cahier (Notebook) No 1, entitled La discrimination (Discrimination)* (Appendix 3), the Quebec Human Rights Commission (Commission des droits de la personne du Quebec), the organization responsible for promoting and implementing the Charter of Human Rights and Freedoms, refers to three forms of discrimination: overt discrimination - for example, the policy of an employer of hiring only men to carry out tasks needing certain physical strength, discrimination concealed by apparent legitimacy, such as the decision to employ a man because the employer takes it for granted that, since the women candidate has two children, she will not be free to do the travelling required by the job, and lastly, systemic discrimination, that revealed by the discriminatory effects or results of a system.[1]

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* When a document exists only in French, an unofficial English title is provided.

[1] Quebec Human Rights Commission, (Commission des droits de la personne du Québec, Cahier (Notebook) 1, La discrimination (Discrimination), 1980, p. 21. (Appendix 3)

The Act to amend the Charter of Human Rights and Freedoms (1982, Chap. 61) includes pregnancy and age as unlawful grounds for discrimination. A paragraph is also added to Section 10 stipulating that "No one may harass a person on the basis of any ground mentioned in Section 10."[2]

Article 2

States Parties condemn discrimination against women in all its forms, agree to pursue, by all appropriate means and without delay, a policy of eliminating discrimination against women and, to this end, undertake:

(a) To embody the principle of equality of men and women in their national Constitutions or other appropriate legislation if not yet incorporated therein, and to ensure, through law and other appropriate means, the practical realization of this principle;

The second consideration of the preamble to the Charter of Human Rights and Freedoms (R.S.Q. Chap. C-12) states that "all human beings are equal in worth and dignity, and are entitled to equal protection of the law." Section 10 of the same law, mentioned under Article 1 of the Convention, ensures every person the right to full and equal recognition and exercise of his human rights and freedoms, without distinction, exclusion or preference based, among other characteristics, on sex or civil status.

(b) To adopt appropriate legislative andother measures, including sanctions where appropriate, prohibiting all discrimination against women;

The prohibition of discrimination against women is to be found in Sections 10 to 20 of the Charter of Human Rights and Freedoms (R.S.Q. Chap. C-12) and the relevant civil and penal sanctions in Sections 49, 69 and 87:

Section 10 Every person has a right to full and equal recognition and exercise of his human rights and freedoms, without distinction, exclusion or preference based on race, colour, sex, sexual orientation, civil state, religion, political convictions, language, ethnic or national origin, social condition, a handicap or the use of any means to palliate a handicap.

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[2] An Act to amend the Charter of Human Rights and Freedoms (1982, Chap. 61), Sections 3 and 4. (Appendix 4)

Discrimination exists where such a distinction, exclusion or preference has the effect of nullifying or impairing such right.

Section 11 No one may distribute, publish or publicly exhibit a notice, symbol or sign involving discrimination, or authorize anyone to do so.

Section 12 No one may, through discrimination, refuse to make a juridical act concerning goods or services ordinarily offered to the public.

Section 13 No one may in a juridical act stipulate a clause involving discrimination.

Such a clause is deemed without effect.

Section 14 The prohibitions contemplated in Sections 12 and 13 do not apply to the person who leases a room situated in a dwelling if the lessor or his family resides in such dwelling, leases only one room and does not advertise the room for lease by a notice or any other public means of solicitation.

Section 15 No one may, through discrimination, inhibit the access of another to public transportation or a public place, such as a commercial establishment, hotel, restaurant, theatre, cinema, park, camping ground or trailer park, or his obtaining the goods and services available there.

Section 16 No one may practise discrimination in respect of the hiring, apprenticeship, duration of the probationary period, vocational training, promotion, transfer, displacement, laying-off, suspension, dismissal or conditions of employment of a person or in the establishment of categories or classes of employment.

Section 17 No one may practise discrimination in respect of the admission, enjoyment of benefits, suspension or expulsion of a person to, of or from an association of employers or employees or any professional corporation or association or persons carrying on the same occupation.

Section 18 No employment bureau may practise discrimination in respect of the reception, classification or processing of a job application or in any document intended for submitting an application to a prospective employer.

Section 19 Every employer must, without discrimination, grant equal salary or wages to the members of his personnel who perform equivalent work at the same place.

A difference in salary or wages based on experience, seniority, years of service, merit, productivity or overtime is not considered discriminatory if such criteria are common to all members of the personnel.

Section 20 A distinction, exclusion or preference based on the aptitudes or qualifications required in good faith for an employment, or justified by the charitable, philanthropic, religious, political or educational nature of a non-profit institution or of an institution devoted exclusively to the well-being of an ethnic group is deemed non-discriminatory.

Section 49 Any unlawful interference with any right or freedom recognized by this Charter entitles the victim to obtain the cessation of such interference and compensation for the moral or material prejudice resulting therefrom.

In case of unlawful and intentional interference, the tribunal may, in addition, condemn the person guilty of it to exemplary damages.

Section 69 Any person who has reason to believe that he is or has been the victim of a violation of any of the rights recognized in Sections 10 to 19 or in the first paragraph of Section 48 may, in writing, request the Commission to make an investigation.

Any group of persons may, in the same manner and on the same conditions, request an investigation.

Section 87 Every person is guilty of an offence:

(a) who contravenes Sections 10 to 19;

(b) who, being a member of the Commission or of its personnel or a person designated in accordance with Section 75, discloses, without being duly authorized to do so, anything that has come to his knowledge in the performance of his duties;

(c) who attempts to bstruct or obstructs the Commission, the embers of its personnel or the person de ignated in accordance with Section 75, in the performance of their duties and in particular, in the conduct of the i vestigation;

(d) who attempts to ake or takes reprisals against a person a group of persons or an organization who or which has, in good faith, requested an investigation or has given evidence o otherwise taken part in an investigation ndertaken by or on behalf of the Co nission;

(e) who attempts to ake or takes reprisals against a person for whom an investigation was requested wi out such person's consent under th second paragraph of Section 70.

The *Act to amend the Charter of Hu an Rights and Freedoms* (1982, Chap. 61) *(Appendix 4)* amends Sect ons 10, 18 and 20 of the Charter. *Age and pregnancy are ad* ed to the unlawful grounds for discrimination in Section 10, hara sment based on any of the grounds stipulated in Section 10 b comes unlawful and Section 18.1 is added:

18.1 No one may, in an em oyment application form or employment interview require a person to give information regardin any ground mentioned in Section 10 unless th information is useful for the application of Secti 20 or the implementation of an affirmative actio program in existence at the time of the applicat on.

Similarly, Section 20 becomes:

"20. A distinction, exclusi or preference based on the aptitudes or qualificat ons required for an employment, or justifi by the charitable, philanthropic, religio , political or educational nature of a non-profit nstitution or of an institution devoted exc usively to the well-being of an ethnic group, is de ed non-discriminatory.

Similarly, under an in rance or pension contract, a social benefits plan o a retirement pension or insurance plan, or und a public pension or public insurance plan, a dist ction, exclusion or preference based on ri determining factors or actuarial data fixed b regulation is deemed non-discriminatory.

> (c) To establish legal protection of the rights of women on an equal basis with men and to ensure through competent national tribunals and other public institutions the effective protection of women against any act of discrimination;"

The Charter of Human Rights and Freedoms (R.S.Q., Chap. C-12) recognizes two ways of implementing the right to non-discrimination in Quebec. The first allows the presumed victim of discrimination to take his case directly to the tribunal, under the terms of Section 49:

> "49. Any unlawful interference with any right or freedom recognized by this Charter entitles the victim to obtain the cessation of such interference and compensation for the moral or material prejudice resulting therefrom.
>
> In case of unlawful and intentional interference, the tribunal may, in addition, condemn the person guilty of it to exemplary damages."

The presumed victim may also request the Human Rights Commission (Commission des droits de la personne) to make an investigation, under Section 69 of the Charter:

> "69. Any person who has reason to believe that he is or has been the victim of a violation of any of the rights recognized in Section 10 to 19 or in the first paragraph of Section 48, may, in writing, request the Commission to make an investigation.
>
> Any group of persons may, in the same manner and on the same condition, request an investigation.

A complaint may also be made by an organization dedicated to the defence of human rights and freedoms or to the well-being of a group of persons, provided that the person on whose behalf it is made has given his consent in writing. However, if the request is made on behalf of a person contemplated in Section 48 of the Charter concerning the exploitation of an aged or handicapped person, the organization may act without the person's consent (Section 70, Charter of Human Rights and Freedoms). After an investigation, the Human Rights Commission (Commission des droits de la personne) shall endeavour to induce the parties to settle their dispute. If a settlement is reached, the terms thereof must be evidenced in writing (Section 81, Charter of Human Rights and Freedoms).

If the Human Rights Commission (Commission des droits de la personne) is unable to bring the parties to a settlement of their dispute, it may recommend the cessation of the act complained of, the performance of an act, or the payment of an indemnity it fixes (Section 82, Charter of Human Rights and Freedoms). If such recommendations are not complied with to the satisfaction of the Human Rights Commission (Commission des droits de la personne), it may, with the written consent of the victim, apply to the tribunal either to obtain an injunction, or to claim, in favour of the victim, the indemnity which it recommended to be paid. However, if the recommendation benefits an aged or handicapped person who is the victim of exploitation, the tribunal shall, despite the Code of Civil Procedure and if the circumstances warrant it in the interest of such person, agree to hear the request without the consent of such person (Section 83, Charter of Human Rights and Freedoms).

The Human Rights Commission (Commission des droits de la personne) may also make an investigation on its own initiative (Section 73, Charter of Human Rights and Freedoms).

Any reprisal or attempt at reprisal against a person, a group of persons or an organization who or which has, in good faith, requested an investigation or has given evidence or otherwise taken part in an investigation of the Commission constitutes an offence (Section 87d, Charter of Human Rights and Freedoms).

The functionaries and employees required for the carrying out of the Charter of Human Rights and Freedoms are appointed by the Commission and are therefore not part of the Civil Service; they may be dismissed by the Lieutenant-Governor in Council but only on the recommendation of the Commission (Section 60, Charter of Human Rights and Freedoms).[3]

(d) To refrain from engaging in any act or practice of discrimination against women and to ensure that public authorities and institutions shall act in conformity with this obligation;

Section 54 of the Charter of Human Rights and Freedoms (R.S.Q., Chap. C-12) stipulates that

"The Charter binds the Crown."

This means that public authorities and institutions are obliged to comply with these provisions.

The Human Rights Commission (Commission des droits de la personne) may therefore investigate the discriminatory acts of the State in its role as employer or administrator. It has done so, moreover. Several lawsuits are also pending against municipalities.

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[3] Concerning this question in general, see CARON, Madeleine, La Commission des droits de la personne du Québec: cinq années de lutte pour la droit à l'égalité (Quebec Human Rights Commission: Five Years of Fighting for the Right to Equality), R.G.D. (1981) p. 35 ff. (see Appendix 5)

(e) To take all appropriate measures to eliminate discrimination against women by any person, organization or enterprise;

Under Sections 11, 12, 13 and 15 of the Charter of Human Rights and Freedoms (R.S.Q., Chap C-12), "No one may distribute, publish or publicly exhibit a notice, symbol or sign involving discrimination; refuse to make a juridical act or inhibit the access of another to public transportation or a public place because of discrimination based on one of the unlawful reasons stipulated in Section 10."

Section 16 prohibits discrimination in respect of the hiring, apprenticeship, duration of the probationary period, vocational training, promotion, transfer, laying-off, suspension, dismissal or conditions of employment of a person or in the establishment of categories or classes of employment. Section 17 prohibits discrimination in respect of admission, enjoyment of benefits, suspension or expulsion of a person to, of or from an association of employers or employees or any professional corporation or association of persons carrying on the same occupation. Section 18 prohibits every employment bureau from practising discrimination in respect of the reception, classification or processing of a job application or in any document intended for submitting an application to a prospective employer. Lastly, Section 19 stipulates that every employer must, without discrimination, grant equal salary or wages to the members of his personnel who perform equivalent work at the same place. Any person or group of persons having reasons to believe that their right to non-discrimination has not been respected may have recourse to the services of the Human Rights Commission (Commission des droits de la personne) to obtain the sanction of their right.

The Human Rights Commission (Commission des droits de la personne) also has the obligation, under Section 67b) of the Charter of Human Rights and Freedoms (R.L.Q., Chap. C-12) to establish a programme of information and education designed to promote an understanding and acceptance of the objects and provisions of this Charter. Several means have been adopted to ensure the carrying out of this obligation. As far as information is concerned, several press conferences have been held in different parts of Quebec. A bulletin is published monthly and reports containing various interpretations of the provisions of the Charter are published from time to time, for the purpose of participating in and contributing to discussions on the information, education and research designed to promote understanding and acceptance of the subject and provisions of the Charter of Human Rights and Freedoms (R.L.Q., Chap. C-12).

The same goal has been pursued with regard to various social agents, universities and colleges through interventions of an educational nature. To illustrate the type of educational initiative favoured by the Human Rights Commission (Commission des droits de la personne), we attach to this report a copy of the brochure Young, Equal in Rights and Responsible (Appendix 6) which was distributed throughout Quebec for the school population.

(f) To take all appropriate measures, including legislation, to modify or abolish existing laws, regulations, customs and practices which constitute discrimination against women;

The obligation of the Human Rights Commission (Commission des droits de la personne) to make an analysis of any Quebec statutes existing prior to the Charter of Human Rights and Freedoms (R.S.Q., Chap. C-12) which may be inconsistent with it, and to make appropriate recommendations to the government has already been mentioned. The whole of the social legislation as well as that concerning the Department of Justice (Ministère de la Justice) have already been analysed.[4]

The importance of this obligation is set out in Section 52 of the Charter which states that:

> "Sections 9 to 38 prevail over any provision of any subsequent act which may be inconsistent therewith unless such act expressly states that it applies despite the Charter."

The Act to amend the Charter of Human Rights and Freedoms (Appendix 4), assented to by the National Assembly on December 18, 1982, amends this section to extend the precedence of the Charter to subsequent laws:

> "No provision of any Act, even subsequent to the Charter, may derogate from Sections 1 to 38, except so far as provided by those sections, unless such Act expressly states that it applies despite the Charter."

Other legislative interventions, especially those respecting the amendment of the Civil Code and the Code of Civil Procedure, have allowed certain discriminatory statutory or customary provisions against women to be removed. These will be discussed later in the report.

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[4] As an example, see International Covenant on Economic, Social and Cultural Rights, Canada's Report on Articles 6 to 9, Quebec section, August 1980, pp. 302 to 338.

(g) To repeal all national penal provisions which constitute discrimination against women.

Under Canadian constitutional law, jurisdiction concerning criminal law belongs to the federal government. Quebec penal provisions are in conformity with the Convention.

Article 3

States Parties shall take in all fields, in particular in the political, social, economic and cultural fields, all appropriate measures, including legislation, to ensure the full development and advancement of women, for the purpose of guaranteeing them the exercise and enjoyment of human rights and fundamental freedoms on a basis of equality with men.

The present report will list some of the measures that have contributed, or will contribute, to the implementation of the provisions of this article.

Some of these measures, and others, are dealt with at greater length later in this report.

The Quebec Charter of Human Rights and Freedoms (R.S.Q., Chap. C-12) was assented to on June 27, 1975 and published on June 26, 1976. This law, taking precedence over all laws since the adoption of the Act to amend the Charter of Human Rights and Freedoms (1982, Chap. 61) (see (Appendix 4), prohibits all discrimination based on sex and civil status, among other grounds, in the political, social, economic and cultural fields, and entrusts the Quebec Human Rights Commission (Commission des droits de la personne du Québec) with its implementation.

For example, in 1981, the Commission undertook an investigation of one thousand and fifteen (1,015) cases. Discrimination based on "Sex" represented thirty-nine percent (39%) of the enquiries, with three hundred and eighty (380) cases, fifty-two (52) of which were for sexual harassment and two (2) relating to the state of pregnancy.

In the labour sector, forty-six per cent (46%) of alleged discriminatory acts were on grounds of sex.[5]

In addition to following up these complaints, the Human Rights Commission (Commission des droits de la personne), with its established programs, provides various social agencies with cooperation, information and education.

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[5] See Droits et Libertés (Rights and Freedoms), Vol. 5, No 5, May-June, 1982 (Appendix 7)

In May 1977, the Status of Women Council (Conseil du statut de la femme) was entrusted by the Quebec Cabinet (Conseil des ministres) with the task of carrying out in-depth research concerning the status of women in Quebec and formulating a comprehensive policy. A government-sponsored research and consultative body, the Status of Women Council (Conseil du statut de la femme) had carried out, since its creation in 1973, a large number of studies on issues related to the status of women.

The report entitled Pour les Québécoises: égalité et indépendance (Quebec Women: Equality and Autonomy) (Appendix 8), tabled in October 1978, provided the government with an overview of the status of women and recommended a comprehensive plan of action enabling each government department to include in its program priorities measures aimed to make substantial improvements in the situation of women.

In December 1978, a special ministerial committee was set up to ensure the development by the government of a comprehensive policy on the equality and independence of women in Quebec.

In Autumn 1979, the government established a General Secretariat on the Status of Women. In October of the same year, a Standing Ministerial Committee on the Status of Women (Comité ministériel permanent sur la Condition féminine) was set up. Members include the Minister of State for the Status of Women, the Minister of State for Cultural Development, the Minister of State for Economic Development and the Minister of State for Social Development. The specific task of this standing committee is to coordinate the implementation of the comprehensive policy and ensure the consistency of government actions relating to the status of women.

All government departments affected by the recommendations of the Status of Women Council's report appointed a person to be responsible for status of women issues.[6]

Other women's groups and associations have also had an impact on the evolution of the status of women in Quebec society. Certain actions of these various associations will be mentioned later in the report.

Article 4

1. Adoption by States Parties of temporary special measures aimed at accelerating de facto equality between men and women shall not be considered discrimination as defined in this Convention, but shall in no way entail, as a

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[6] See Etat des actions gouvernementales en matière de condition féminine (Report on Government Actions with regard to the Status of Women, 1980-1981), General Secretariat on the Status of Women (Secrétariat général à la Condition féminine). (Appendix 9)

consequence, the maintenance of unequal or separate standards; these measures shall be discontinued when the objectives of equality of opportunity and treatment have been achieved.

2. Adoption by States Parties of special measures, including those measures contained in the present Convention aimed at protecting maternity, shall not be considered discriminatory.

The legislative intentions of the government of Quebec and its policy as an employer will be examined in turn. Concerning the question of protecting maternity, we refer the reader to the International Covenant on Economic, Social and Cultural Rights, Canada's Report, Quebec section, with regard to the implementation of the provisions in Articles 10 to 12 of the Covenant, pp. 403-407 and the comments under Articles 11(1)f, 11(2)b and 11(2)d of the present Convention.

With the adoption of the Act to amend the Charter of Human Rights and Freedoms (Appendix 4), affirmative action programs are henceforth authorized. Indeed, Part III of the Act reads as follows:

PART III
AFFIRMATIVE ACTION PROGRAMS

"86.1 The object of an affirmative action program is to remedy the situation of persons belonging to groups discriminated against in employment, or in the sector of education or of health services and other services generally available to the public.

An affirmative action program is deemed non-discriminatory if it is established in conformity with the Charter."

"86.2 Every affirmative action program must be approved by the Commission, unless it is imposed by order of the court.

The Commission must, whenever required, lend assistance for the devising of an affirmative action program.

"86.3 If, after investigation, the Commission confirms the existence of a situation involving discrimination referred to in Section 86.1, it may recommend the implementation of an affirmative action program within such time as it may fix.

Where its recommendation has not been followed, the Commission may apply to the court and, on proof of the existence of a situation contemplated in Section 86.1, obtain, within the time fixed by the Court, an order to devise and implement a program. The program thus devised is filed with the court which may, in accordance with the Charter, make the modifications it considers appropriate.

"86.4 The Commission shall supervise the administration of the affirmative action programs. It may make investigations and require reports.

"86.5 Where the Commission becomes aware that an affirmative action program has not been implemented or is not being followed, it may, in the case of a program it has approved, withdraw its approval or, if it recommended implementation of the program, it may apply to the Court as in the second paragraph of Section 86.3.

"86.6 A program contemplated in Section 86.3 may be modified, postponed or cancelled if new facts warrant it.

If the Commission and the person required to implement the affirmative action program, agree on its modification, postponement or cancellation, the agreement shall be evidenced in writing.

Failing agreement, either party may request the court to decide whether the new facts warrant the modification, postponement or cancellation of the program.

All modifications must conform to the Charter.

"86.7 The Government must require its departments and agencies to implement affirmative action programs within such time as it may fix.

Sections 86.2 to 86.6 do not apply to the programs contemplated in this section. The programs must, however, be the object of a consultation with the Commission before being implemented.

## PART IV

## REGULATIONS

"86.8 the Government may, by regulation,

a) fix the actuarial data and the risk determining factors that are non-discriminatory under an insurance or pension contract, a social benefits plan or a retirement pension or insurance plan, or a public pension or public insurance plan;

b) fix the criteria, norms, scales, conditions or modalities applicable for the devising, implementation or carrying out of affirmative action programs, define their limits and determine anything necessary or useful for those purposes.

"86.9 The Government, after consultation with the Commission shall publish the draft regulation in the Gazette officielle du Québec (Quebec Gazette) with a notice of the time after which the draft will be tabled before the Standing Committee on Justice and that it may be adopted on the expiry of thirty days after the Committee reports to the National Assembly of Quebec.

The Government may then amend the draft regulation. It must, in that case, publish the amended draft regulation in the Gazette officielle du Québec (Quebec Gazette) with a notice indicating that it will be adopted without amendments at the expiry of thirty days after such publication.

"86.10 Every regulation comes into force on the date of its publication in the Gazette officielle du Québec (Quebec Gazette) or on any later date indicated therein."

30. An affirmative action program in existence at the coming into force of this Act that must be submitted to the Human Rights Commission (Commission des droits de la personne) for approval is deemed non-discriminatory until the Commission renders its decision on the matter".

Moreover, the government of Quebec, in 1980, announced its equality of opportunity policy for women in the Civil Service. (See Appendix 10)

Based on studies showing a problem of under-representation of women at all employment levels in the Civil Service, the policy of the government as an employer now consists in introducing a series of measures aimed to eliminate from personnel management policies, regulations, practices and directives, those elements which might, in one way or another, be discriminatory in nature against women and men, especially but not exclusively with respect to hiring, vocational training, evaluation of experience, including that obtained without pay, promotion, working conditions, as well as the establishment of job categories or classification. For this purpose, the government requests the participation of all its departments and agencies.

The introduction of all the necessary measures for implementing this policy is the responsibility of the highest level of the organization.

To achieve the desired goals, all regulations concerning personnel management must be revised to bring them into line with the provisions of the Charter of Human Rights and Freedoms (R.S.Q., Chap. C-12). Numerical targets have also been set to correct any imbalance between the periodically examined objectives and results.

An Equality in Employment Monitoring Committee (Comité de surveillance de l'égalité en emploi) has also been set up with the task of monitoring the progress of the plans of action and advising the Minister of the Civil Service. Members of this supervisory committee include one representative each from the Department of the Civil Service (Ministère de la Fonction publique), the Personnel Recruitment and Selection Bureau (Office de recrutement et de la sélection du personnel), the Treasury Board, the General Secretariat on the Status of Women (Secrétariat général à la Condition féminine), the Status of Women Council (Conseil du statut de la femme), the Human Rights Commission (Commission des droits de la personne), the Personnel Management Advisory Board (Comité consultatif de la gestion du personnel) and the Quebec Union of Provincial Public Employees (Syndicat des fonctionnaires provinciaux du Québec).

The Department of the Civil Service (Ministère de la Fonction publique) must, among other things, make various instruments available to government and agencies, in particular, training programs for the departmental officers concerned, materials for seminars to make support personnel aware of career planning, and for sessions giving information on ways of carrying through their career plan, as well as programs involving sensitizing seminars for senior personnel.

The Department of the Civil Service (Ministère de la Fonction publique), since the 1979-80 fiscal year, has been compiling an annual statistical report containing the following socio-economic data: distribution of employees by sex, class, age, salary and category for each of the government departments and agencies governed by the Civil Service Act.

The Department must also collect data and publish a report concerning the supply of female labour, which includes, in particular, figures concerning the number of students leaving the universities, general and vocational colleges and secondary schools, with the number and proportion of graduates by sex, field of study and institution, statistics concerning manpower in general, by sex, years of schooling and sectors of employment giving numbers and proportions, as well as statistics concerning applications to the Civil Service by sex and category for candidates applying, found acceptable and appointed.

Certain additional measures are also provided for. Thus, with respect to attracting job applications, steps are taken to ensure the active participation of women in the delivery of seminars concerning Civil Service employment; these are given in educational establishments, among other places, to publicize examples of women who occupy positions traditionally held by men and vice versa, and to develop publicity programs to encourage the recruitment of men and women in all job categories in which they are represented.

As far as selection is concerned, the procedures must guarantee women equal access to employment opportunities, in particular by requiring that all members of a selection board should have received adequate training so as to ensure genuine equality of access to Civil Service positions; by setting up a name bank of women in professional and executive positions in organizations outside the Civil Service to sit on selection boards; by taking the necessary steps to ensure the presence of women on each selection board, and especially in competitions where there are women candidates; and by according the same attention, when evaluating relevant experience, to the study of so-called female tasks, paid or not, as that now accorded in the study of men's applications.

Other measures concern vocational training as well as job classification and remuneration, in particular with respect to the classification of secretarial personnel and the improvement of their situation.

Finally, the Government will support the setting up of day-care centres where there is a sufficient number of employees to warrant forming a group interested in organizing such a project.

Completion of the next stage, consolidation and comprehensive review, was planned for October 1982. At that time, the two annual plans submitted by each department and agency were studied.

The percentage of women in senior posts in the Quebec Civil Service was 1.55% in 1976 and 4.5% in 1982.

Article 5

States Parties shall take all appropriate measures:

a) To modify the social and cultural patterns of conduct of men and women, with a view to achieving the elimination of prejudices and customary and all other practices which are based on the idea of the inferiority or the superiority of either of the sexes or on stereotyped roles for men and women;

We refer the reader to:

Pour les Québécoises: Egalité et indépendance (Quebec Women: Equality and Autonomy), Appendix 8, particularly pages 43 ff., 55 ff., 76 ff, and 246 ff.

Young, Equal in Rights and Responsible, Appendix 6, particularly page 28.

Grille d'analyse des stéréotypes discriminatoires dans le matériel didactique (Screening grid for discriminatory stereotypes in teaching materials), Cahier (Notebook) I: Guide d'utilisation de la grille d'analyse (Guide to the screening grid); Cahier (Notebook) II: Les feuilles d'enregistrement des données (Data Sheets); Cahier (Notebook) III: Synthèse de l'analyse (Summary), Appendix 11.

Etat des actions gouvernementales en matière de condition féminine (Report on Government Actions with regard to the Status of Women), Appendix 9.

Les Québécoises et le loisir (Quebec Women and Recreation), Appendix 12.

In addition to the measures discussed under other articles of the Convention and contained in the above-mentioned documents, a further example concerning advertising should be noted.

The Committee for Non-Sexist Advertising (Comité pour la publicité non-sexiste) of the Status of Women Council (Conseil du statut de la femme) was set up in November 1979 and consists of representatives from the following organizations: the Status of Women Council (Conseil du statut de la femme), the Consumer Protection Bureau (Office de la protection du consommateur), the Human Rights Commission (Commission des droits de la personne), the Women's Education and Social Action Association (Association féminine d'éducation et d'action sociale), the Quebec Women's Association (Fédération des femmes du Québec), the Montreal YWCA, the Artists' Union (Union des artistes), the Committee on the Status of Women (Comité de la condition féminine) of the Quebec Federation of Labour (Fédération des travailleurs du Québec), as well as resource persons from Quebec industry and advertising. This committee has the responsibility of sensitizing and educating the public and industry with regard to sexist advertising. The medium-term results of their activities will enable the Status of Women Council (Conseil du statut de la femme) to reassess the necessity for legislation concerning the elimination of sexist advertising.

The Committee receives complaints from the public throughout the year. If these are found to be justified, the Committee's director tries to persuade the advertising agency and the sponsor, either a firm or an individual, to change his advertising. Sexist advertising is also sometimes published in the Gazette des femmes (Women's Gazette), the bulletin of Quebec's Status of Women Council (Conseil du statut de la femme).

In 1981, the Committee for Non-Sexist Advertising (Comité pour la publicité non-sexiste) introducted the "Demeritas" competition and, in 1982, added the "Emeritas" competition to highlight certain sexist-free advertising messages.

This Demeritas-Emeritas competition reinforces individual and isolated opinions by bringing them together and gives public expression to the existence of a strong anti-sexist current in Quebec opinion.

As a result of the 1981 Demeritas competition, most of the advertisements that had received negative mentions were withdrawn. A multinational company with an advertising budget of twenty-seven million dollars withdrew its advertising from the French television networks for a product that had received the Demeritas prize in 1981. Using Status of Women Council publications, this firm intends to organize seminars on sexism for its executives as well as for the personnel of the seven (7) advertising agencies that publicize its products.

The Committee has published a code of ethics on sexism in advertising which reads as follows:

> "By sexual discrimination (or by sexism) we mean a distinction which diminishes or demeans one sex in comparison with the other.
>
> However, the different definitions of sexism in general use indicate that it is the feminine sex which is the victim of this form of discrimination.

The clauses which follow have developed with the aim of improving the image of women without disparaging the masculine sex.

1. Neither sex should be used, in whole or in part, in such a way as to be reduced to a decorative or sexual object. In this context, a decoration means an added element used for no other reason than to embellish and which has no relationship to the normal use of the product.

2. Neither sex should be shown unnecessarily as being weak or inferior or as being unduly dependent physically or emotionally upon the other sex.

3. Neither sex should be presented in a manner which belittles their intellectual capacities.

4. The qualities attributed to characters portrayed in advertising should reflect the equality of the sexes. To this end advertising must not:

   a) attribute certain physical qualities to one sex more than another;

   b) present the use of a product as apt to confer in its own right the power of seduction.

5. The quality of the sexes must also be reflected by the division of social and parental roles.

   To this end advertising must:

   a) avoid the systematic association of certain types of products with only one sex when these products are used by both sexes;

   b) show the diversity of professional roles as being equally accessible to both men and women;

   c) tend to show both sexes as being equally responsible for domestic tasks, and for the education and care of children;

   d) eliminate servile attitudes.

6. Where children are concerned, advertising cannot habitually associate a product or a service with one sex to the exclusion of the other.

7. Advertising should try to use equitable numbers of both sexes for off-camera voices in order to reflect the principle of equality of the sexes.

      b) To ensure that family education includes a proper understanding of maternity as a social function and the recognition of the common responsibility of men and women in the upbringing and development of their children, it being understood that the interest of the children is the primordial consideration in all cases.

We refer the reader to the following:

International Covenant on Economic, Social and Cultural Rights, Canada's Report on the implementation of the provisions of Articles 10 to 12 of the Covenant, Quebec section, pp. 395-407.

Comments under Article 11(1) of the Convention, below;

Pour les Québécoises: égalité et indépendance (Quebec Women: Equality and Autonomy), Appendix 8, page 87, 168 and 181.

Article 6

States Parties shall take all appropriate measures, including legislation, to suppress all forms of traffic in women and exploitation of prostitution of women.

We refer the reader to:

Prostitution des jeunes? Connais pas... (Teenage Prostitution? Never heard of it . . .), Appendix 13;

Rapport du groupe de travail sur la prostitution chez les mineurs (Report of the Study Group on the Prostitution of Minors), Appendix 14.

Under Canadian constitutional law, jurisdiction concerning the exploitation of prostitution belongs to the federal government.

## PART II

### Article 7

States Parties shall take all appropriate measures to eliminate discrimination against women in the political and public life of the country and, in particular, shall ensure, on equal terms with men, the right:

a) To vote in all selections and public referenda and to be eligible for election to all publicly elected bodies;

The Quebec Elections Act (R.L.Q., Chap. E-3), in its Section 48, defines the qualifications needed to be an elector:

> "48. Every natural person is qualified to be an elector to be entered on an electoral list if he fulfills the following five conditions:
>
> 1. has been domiciled in Quebec for at least one year before the last day of the annual revision;
>
> 2. has been domiciled in a polling sub-division on the first day fixed for the annual enumeration;
>
> 3. to be of full age of eighteen years old on the last day of the annual revision or on the general polling day;
>
> 4. to be of Canadian citizenship at the time of the entry of his name during the enumeration or revision;
>
> 5. not to be affected by an disqualification from voting contemplated by this Act."

The Referendum Act (R.L.Q., Chap. C-64.1) refers to the above mentionned section of the Elections Act.

Section 22 of the Charter of Human Rights and Freedoms (R.L.Q., Chap C-12) states that:

> "22. Every person legally capable and qualified has the right to be a candidate and to vote at an election."

The Quebec Department of Municipal Affairs (Ministère des Affaires municipales) launched a campaign in 1981 to sensitize the public to the importance of municipal democracy.

The two objectives set for the first stage were to increase the number of candidates for elective office (mayor, councillor) by insisting on the need for more women on municipal councils and to increase the number of voters wherever elections were held.

The second stage was to improve the public image of local government so as to make elective office on municipal councils more attractive, especially to women.

The aim of the last stage of the campaign was to motivate as many people as possible to take part in elections whenever there was a choice of candidates.

Several government agencies participated in carrying out this program including the Status of Women Council (Conseil du statut de la femme) and the Department's regional offices, especially with regard to the target population (women).

The results of the 1981 municipal elections were considered positive as far as women are concerned.

Whereas in 1980, 1.4% of mayors were women, this percentage increased to 2.3% in 1981. The increase was even greater for councillors. From 4.1%, it rose to 8.1% in 1981.

It was expected that over 4% of the candidates would be women and over 4% of those elected would be women. The results were 6.7% and 8.1% respectively.

See Rapport d'évaluation de la campagne de sensibilisation aux élections municipales de 1981 (Evaluation Report on the 1981 municipal elections sensitizing campaign), Appendix 15.

b) To participate in the formulation of government policy and implementation thereof and to hold public office and perform all public functions at all levels of government;

We refer the reader to:

Egalité en emploi pour les femmes dans la Fonction publique (Equal employment opportunities for women in the civil service), Appendix 10, discussed under Article 4 of the Convention;

Etat des actions gouvernementales en matière de condition féminine 1980-1981 (Report on government actions with regard to the Status of Women), 1980-1981, Appendix 9, pages 100 to 102.

c) To participate in non-governmental organizations and associations concerned with the public and political life of the country.

The two main political parties in Quebec, the Parti québécois and the Liberal Party have 41% and 48% women members respectively.

There are no women on the board of directors of the Quebec Employers Council (Conseil du patronat du Québec), but there is one woman on its executive committee, this being permitted by the structure of the organization.

For the four main trade-union organizations, the figures are as follows: Confederation of National Trade Unions (CSN) 55% of members are women, no women on the executive committee; Quebec Federation of Labour (FTQ) 33% of members and 9% of the executive are women; Democratic Trade Unions Central (Centrale des syndicats démocratiques) (CSD) 30% of members and 17% of the extended executive are women; Quebec Teachers Union (Centrale des enseignants du Québec) (CEQ) 65% of members and 42% of the executive are women.

In 1981, the Association of Women University Graduates (Association des femmes diplômées des Universités) (Montreal) published a study on La place de la femme dans les corporations professionnelles (The place of women in professional corporations), (Appendix 16).

With respect to the representation of professional women, the study shows that with few exceptions, "the professions are either highly female- or male-concentrated. This applies as much to the professional sector as to that of traditionally female or male occupations."[7]

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7. Association des femmes diplômées des Universités (Montréal): La place de la femme dans les corporations professionnelles (The place of women in professional corporations), May 1981, Appendix 16, p. 4.

For the purpose of its research, the Association divided the professions into three categories: male professions, with less than 40% women members, mixed professions, with between 30% and 70% women members, and female professions, with over 70% women members. On the basis of this classification, the Association listed eighteen male professions, four mixed professions and five female professions. The study notes first of all that the male professions are the most numerous and those which also cover the largest number of fields. They monopolize the fields of medicine, pure and applied science and administration. For their part, the predominantly female health professions such as those of physiotherapists, nurses, dental hygienists, occupational therapists and dietitians are subordinated to the male professions.[8]

With regard to the predominantly female professions, one single profession, that of nursing, contains 79% of all women belonging to the professional corporations. In the predominantly male professions, the same percentage of male members, i.e. 79%, is distributed among nine professions.[9]

The study also gives an assessment of the presence of women at the decision-making and administrative levels of the professional corporations. The findings may be summarized as follows:

> "a) in many cases, women are either completely absent from the decision-making and administrative levels of the corporations, or under-represented in relation to their numbers in the corporations as a whole:
>
> - in eight (8) corporations, no woman has been elected either to the board of directors or to the executive committee;
> - in nine (9) other corporations, women represent between 4 and 18% of the members of these committees;
>
> b) even in the "female" professions, the proportion of women on the board or on the executive is nearly always lower than the proportion of women members in the corporation;
>
> c) the difference is even more pronounced on the corporations' executive committees:

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[8] Idem., pp. 4, 5 and 6.

[9] Idem., p. 6.

- only ten (10) corporations out of twenty-seven (27) have women on their executives;
- of these ten (10) corporations only three (3) belong to the male category."[10]

As to the future, the study concludes that "an analysis of the proportions of men and women in Quebec universities and colleges in the various disciplines suggests no important short-term changes. However, it is encouraging to note that at university, sectors like those of the health services, the pure sciences, law and administration, traditionally with a predominantly male enrolment, have a higher proportion of women than heretofore."[11]

## Article 8

States Parties shall take all appropriate measures to ensure to women on equal terms with men and, without any discrimination, the opportunity to represent their Governments at the international level and to participate in the work of international organizations.

On August 24, 1982, the Quebec Minister of Intergovernmental Affairs announced the appointment of Mme Michèle Thibaudeau-De Guire as Delegate of Quebec in New England (Boston). Quebec's first woman delegate is an engineer by profession.

See also the *Liste de participantes à des colloques, conférences, symoposiums à caractère international* (List of women participating in international seminars, conferences and symposia), (*Appendix 17*).

## Article 9

1. States Parties shall grant women equal rights with men to acquire, change or retain their nationality. They shall ensure in particular that neither marriage to an alien nor change of nationality by the husband during marriage shall automatically change the nationality of the wife, render her stateless or force upon her the nationality of the husband.
2. States Parties shall grant women equal rights with men with respect to the nationality of their children.

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[10] Idem, pp. 14 and 15.

[11] Idem, pp. 32 and 33.

Under Canadian constitutional law, jurisdiction concerning nationality belongs to the federal government.

## PART III

### Article 10

States Parties shall take all appropriate measures to eliminate discrimination against women in order to ensure to them equal rights with men in the field of education and in particular to ensure, on a basis of equality of men and women:

a) The same conditions for career and vocational guidance, for access to studies and for the achievement of diplomas in educational establishments of all categories in rural as well as in urban areas; this equality shall be ensured in pre-school, general, technical, professional and higher technical education, as well as in all types of vocational training;

The goal of the Department of Education with respect to vocational guidance is to enable teenagers to broaden their academic and vocational options.

The compilation and publication of the new version of the academic and vocational information program are now complete. (See Appendix 18). The aim of this program is to combat occupation-related stereotypes and prejudices.

The introduction and distribution of the "Vire-vie" (Career orientation) guidance program material (see Appendix 19) took place at the beginning of 1980. A list of guidance objectives for the secondary level is also being compiled. Lastly, there is a plan to make an inventory of courses offered in the guidance departments and of the new guidance practices with regard to female students.

b) Access to the same curricula, the same examinations, teaching staff with qualifications of the same standard and school premises and equipment of the same quality;

In Quebec, the whole educational system from pre-school to university is mixed. Students of both sexes have access to the same premises and teaching staff.

Two other programs have been added to the academic and vocational information program (see, above, comments under Article 10a) of the Convention). Introduction to industrial arts and home economics will become compulsory subjects for all boys and girls.

The personal and social training program, of which is sex education is a part, will include information concerning the socioeconomic situation of women, human rights and relevant legal provisions. The program is now being worked out and will be compulsory at all primary and secondary levels.

As far as basic and advanced teacher training is concerned, the objective is to include information on sexism and on the status of women in general.

The Department of Education (Ministère de l'Education), together with representatives from the universities, also participates in the work of a committee on teacher training.

Training for staff working with children aged 0 to 6 in day-care centres is provided by a number of Quebec's general and vocational colleges. The Department of Education (Ministère de l'Éducation) ensures that this training is not sexist in nature.

To sensitize the personnel of the Department of Education (Ministère de l'Education) itself, the Networks Branch (Direction générale des réseaux) has undertaken various activities.

A list of female staff both in Quebec City and in the regions has been compiled. All information of a general nature concerning the status of women is circulated to the staff of the department.

To reach the teaching staffs of the primary, secondary, college and university networks, an initial status of women committee was set up in the fall of 1980 with representatives from the Department of Education (Ministère de l'Education) and the universities.

> c) The elimination of any stereotyped concept of the roles of men and women at all levels and in all forms of education by encouraging coeducation and other types of education which will help to achieve this aim and, in particular, by the revision of textbooks and school programmes and the adaptation of teaching methods;

See, above, the comments under Article 10a) and b) of the Convention.

The Quebec Department of Education has set up a committee to establish a reading grid (Comité pour la fabrication d'une grille de lecture), with the task of formulating screening guidelines aimed, firstly, at eliminating all discriminatory stereotypes and, secondly, at ensuring representation from the various groups making up the population of Quebec. This committee was composed of representatives of the Department of Education (Ministère de l'Education), the Status of Women Council (Conseil du statut de la femme) and the Human Rights Commission (Commission des droits de la personne). The committee completed its work and the screening procedure is now in operation (see Appendix 11). All

Quebec textbooks must now conform to the provisions of this screening procedure. Lastly, materials are being prepared to help in the analysis of existing texts when the screening procedure comes into force. Four audio-visual documents have already been produced and are being tested.

In collaboration with the Human Rights Commission (Commission des droits de la personne), the Department of Education (Ministère de l'Education) has also published the brochure Young, Equal in Rights and Responsible (see Appendix 6) which has been distributed throughout Quebec for the entire school population. This document has also been used for teacher training purposes.

d) The same opportunities to benefit from scholarships and other study grants;

The Students' Loans and Scholarships Act (R.L.Q., Chap. P-21) defines the word "student" as "a person enrolled in an educational institution at the post-secondary level who is recognized as a student by the regulations" (Section 1c).

e) The same opportunities for access to programmes of continuing education, including adult and functional literacy programmes, particularly those aimed at reducing, at the earliest possible time, any gap in education existing between men and women;

In January 1980, the Task Force on Teacher Training (Commission d'étude sur la formation des maîtres) was set up to carry out research, particularly into questions concerning:

"a) vocational training at the secondary, college and university levels;

b) the vocational retraining and advanced training of workers, in the various institutional networks, industries, professions, trade unions, etc..., from the standpoint of continuing education;

c) the division of interministerial and institutional responsibilities with respect to financial support and vocational instruction services available to manpower;

d) cultural (non-vocational) education for adults, both in and outside educational institutions;

e) adult education and the promotion of collective well-being."

See Appendix 20 Appendre: une action volontaire et responsable (Learning: A voluntary and responsible action), Task Force on

Adult Education (Commission d'étude sur la formation des adultes), pp. 51 ff.

The report was submitted to the Quebec government in February 1982.

Part of the report is devoted to the accessibility of adult education (Part 3) and examines "discrimination-related access inequalities", including those related to the status of women.

First of all, the Task Force notes that society still overwhelmingly imposes responsibility for the care and education of children on women. This usually implies little time for other activities, as well as a state of financial dependency hardly conducive to expenditure for training purposes.

The schools still foster a division of sex-based social roles. From secondary school onwards, girls still tend to choose traditional vocational options giving immediate access to the labour market. At university, the proportion of female graduates decreases from 42% at the Bachelor's degree level to 23% at the Ph.D. level. Moreover, women still choose certain specific sectors: the social sciences, education, arts and the health sciences, in which they form 93.7% of the para-medical group.

Thus, schools continue to foster a sex-based role division and to foster sexist stereotypes which serve to justify discrimination.

The guidance services, through their incompetence and sexism, may well contribute to maintaining women in employment ghettos, and the labour markets develop their own discriminatory mechanisms. The report notes first of all that the more job-related the training, the more selective and limitative the access mechanisms are for women, since a majority of women are confined to ghettos where they require little training.

Women also occupy 80% of part-time jobs in Quebec, and are thus subject to the disadvantages of this type of work: lack of job security, manpower turnover, almost complete absence of trade-union protection, etc.

(See Appendix 20, pp. 132-137.)

The Task Force (Commission d'étude) made eight (8) recommendations concerning women:

> "-that women be ensured equal opportunities for personal and professional development, among other means, by "desexizing" guidance and information services, and also "desexizing" the admission standards, curricula and structures of training programs;

- that all discriminatory sex- or age-related elements be expurgated from information material describing job-related training program;
- that the various Quebec government departments and agencies have recourse to the media to help change attitudes towards the "desexisation" of social roles;
- that services be developed, such as day-care facilities in training centres, to promote women's access to educational resources, and that such services be considered just as important as the other training support services;
- that guidelines respecting job-transferability now used for training related to part-time work be made more flexible so as to enable women who wish to prepare themselves for a return to the labour market to do so;
- that affirmative action measures be taken on behalf of women with respect to access to further on-the-job training activities, especially those for usually neglected job categories;
- that all occupations be accessible to women and that employers be urged by the State to employ women in non-traditional occupations;
- that present training programs designed to help women return to the labour market be pursued."

(See Appendix 20, p. 159.)

On the question of literacy, see Appendix 20, pp. 99 ff.

In July 1982, a committee of the Department of Education (Ministère de l'Education) tabled a document analysing the report of the Task Force on Adult Education (Commission d'étude sur la formation des adultes) from the viewpoint of the status of women. The aim of this analysis was to extract and identify the issues specifically related to the status of women in the formulation of the Commission's 430 recommendations. See Appendix 21, Analyse du rapport de la C.E.F.A. Apprendre: une action volontaire et responsable - Position du Comité ad hoc sur la formation des adultes et de la coordination à la condition féminine du ministère (Analysis of the C.E.F.A. Report, Learning: a voluntary and responsible action - Position of the Special Committee on adult education and co-ordination of the status of women in the department), Quebec Department of Education (Ministère de l'Education du Québec), July 1982.

The Department of Education (Ministère de l'Education) has also set up a departmental committee with the general task of analysing and defining what means might be taken to introduce a policy of recognizing experience at the various levels of the educational system. See Appendix 22, La reconnaissance des acquis au ministère de l'Education (Recognition of experience at the Department of Education) and Condition féminine et reconnaissance des acquis de formation (Status of women and recognition of training experience), Quebec Department of Education (Ministère de l'Education du Québec).

As an example of other initiatives in this regard, mention should be made of the brochure published by the Status of Women Council (Conseil du status de la femme) entitled: Projets de femmes - Information pour celles qui retournent aux études et/ou qui reviennent sur le marché du travail (Women's plans - information for women returning to school and/or to the labour market) (see Appendix 23).

f) The reduction of female student drop-out rates and the organization of programmes for girls and women who have left school prematurely;

See comments under the previous paragraph and Appendix 24, L'abandon scolaire (School drop-out), Quebec Department of Education (Ministère de l'Education du Québec), October 1981.

g) The same opportunities to participate actively in sports and physical education;

The fourth phase of the plan of action of the Department of Education (Ministère de l'Education) with regard to the status of women is the reappropriation of living space. This objective concerns the place women should occupy in the educational field.

The space that must be reappropriated by women as regards education is physical (in terms of safety and well-being at school), psychological (with regard to male-female relations in school), economic (in the utilization of the school's human, material and financial resources), and political (in the various levels of responsibility and decision-making at school).

The aim of economic reappropriation is to share out the human, material and financial resources made available for school and extramural activities more fairly between male and female students.

A study of the general situation of student activities at the secondary level was completed in September 1980. Other more specific studies discuss participation in activities, resource-sharing, activities available and budgetary break-downs, with regard to the sex of participants.

h) Access to specific educational information to help to ensure the health and well-being of families, including information and advice on family planning.

See above for comments under Article 10b) of the Convention.

Information at school concerning family planning has been the object of concerted action on the part of the Department of Social Affairs (Ministère des Affaires sociales) and the Department of Education (Ministère de l'Education).

Within the framework of the family planning policy of the Department of Social Affairs (Ministère des Affaires sociales), the introduction of the "school preventive information program" has been a priority since 1973.

By making competent professional resources available to the student population, this program aims at providing young people with adequate information concerning sexuality and birth control.

This activity is nonetheless intended to be carried out in conformity with the right of parents and teachers to become involved with young people within a comprehensive educational system.

The Department of Social Affairs (Ministère des Affaires sociales) asked those responsible for the program to direct their efforts first of all towards older students in vocational courses who are about to enter the labour market. The activity was then extended to secondary school students. The instructors also act as resource persons for parents and instructors at the primary level.

Each year, the program is evaluated numerically. A project for qualitative evaluation has already been tried out in three Quebec regions.

This program has been introduced in every region in Quebec, and, in 1978-1979, it reached 74,356 students in 236 institutions, 88.6% of which were secondary or comprehensive schools.

See, below, the comments under Article 12, Paragraph 1 of the Convention.

## Article 11

1. States Parties shall take all appropriate measures to eliminate discrimination against women in the field of employment in order to ensure, on a basis of equality of men and women, the same rights, in particular:

    a) The right to work as an inalienable right of all human beings;

See International Covenant on Economic, Social and Cultural Rights, Canada's Report on Articles 6 to 9, Quebec Section, August 1980, pp. 290-291.

b) The right to the same employment opportunities, including the application of the same criteria for selection in matters of employment;

See, idem and above, the comments under Article 2 of the Convention.

c) "The right to free choice of profession and employment, the right to promotion, job security and all benefits and conditions of service and the right to receive vocational training and retraining, including apprenticeships, advanced vocational training and recurrent training;

See International Covenant on Economic, Social and Cultural Rights, Canada's Report on Articles 6 to 9, Quebec Section, August 1980, pp. 290-291.

d) The right to equal remuneration, including benefits, and to equal treatment in respect of work of equal value, as well as equality of treatment in the evaluation of the quality of work;

See idem, page 339 and Appendix 25, A travail équivalent, salaire égal sans discrimination (Equal pay for equal work, without discrimination), Cahier (Notebook) No 3, Quebec Human Rights Commission (Commission des droits de la personne du Québec), 1980.

e) The right to social security, particularly in cases of retirement, unemployment, sickness, invalidity and old age and other incapacity to work, as well as the right to paid leave;

See International Covenant on Economic, Social and Cultural Rights, Canada's Report on Articles 6 to 9, Quebec section, August 1980, pp. 294 and 297.

f) The right to protection of health and to safety in working conditions, including the safeguarding of the function of reproduction.

See International Covenant on Economic, Social and Cultural Rights, Canada's Report on Articles 6 to 9, Quebec section, August 1980, pp. 291 to 293.

The Act respecting Occupational Health and Safety (R.S.Q., Chap. S-2.1) recognizes that "every worker has a right to working conditions that have proper regard for his health, safety and physical well-being (Section 9). The word "worker" is defined in Section 1 of the Act as "a person, including a student in the cases determined by regulation, who, under a contract of lease of personal service or a contract of apprenticeship, even without remuneration, carries out work for an employer except (1) a person employed as manager, superintendent, foreman or as the agent of the employer in his relations with his workers; (2) a director or officer of a corporation, except where a person acts as such in relation to his employer after being designated by the workers or by a certified association."

So as to ensure the application of the principle stated in Section 1, the Act first of all recognizes a worker's "right of refusal." Section 12 states that:

> "12. A worker has a right to refuse to perform particular work if he has reasonable grounds to believe that the performance of that work would expose him to danger to his health, safety or physical well-being, or would expose another person to a similar danger."

No worker may, however, exercise his right of refusal if such refusal to perform the work puts the life, health, safety or physical well-being of another person in immediate danger or if the conditions under which the work is to be performed are ordinary conditions in his kind of work (Section 13). Once a worker has indicated his refusal to work, his employer shall not have the work performed by another worker of the same or another establishment (Section 14). As soon as the employer or his agent is informed of a right of refusal, he shall convoke the safety representative to examine the matter and the corrective measures he intends to apply. If there is no safety representative or if he/she is not available, the safety representative is replaced by a representative of the worker's certified association (Section 16). If the worker maintains his refusal to perform the work in spite of the opinion that no danger exists to justify his refusal to work, the employer may have the work performed by another worker. This other worker may accept to perform the work after being informed that the right of refusal has been exercised and of the reasons therefor (Section 17). If necessary, an inspector, appointed and paid in conformity with the Civil Service Act, may intervene and his decision is executory, but may be appealed to the regional chief inspector (Sections 20 and 21).

Secondly, the Act recognizes the right to protective re-assignment for a worker who furnishes his employer with a certificate attesting that his being exposed to a contaminant entails danger to him. The worker may then request to be re-assigned to duties that do not entail such exposure until the condition of his health allows him to resume his former duties and his working conditions conform to the standards established by regulation for than contaminant (Section 32). If a re-assignment is not made immediately, the worker may stop working until he is re-assigned or his health or working conditions allow him to return to his duties (Section 35). For the first five working days of his work stoppage, the worker is entitled to be remunerated at his regular wage rate. Thereafter, he is entitled to the equivalent of ninety percent (90%) of his net income (Section 36). Whether he has been assigned to other tasks or has stopped working, the worker retains all the benefits recognized for his workplace, subject to payment of the exigible assessments, part of which is assumed by the employer (Sections 38 and 39).

Thirdly, the Act also recognize the re-assignment of a pregnant worker. If the latter furnishes her employer with a certificate attesting that her working conditions may be physically dangerous to her unborn child, or to herself by reason of her pregnancy, she may request to be re-assigned to other duties involving no such danger (Section 40). If a requested re-assignment is not made immediately, the pregnant worker may stop working until she is re-assigned or until the date of delivery (Section 41). A worker who exercises her rights retains all the benefits attached to her regular employment before her re-assignment to other duties and at the end of this assignment or her work stoppage, the employer must return her to her regular employment (Section 43).

Lastly, the same right is recognized for the worker who breast-feeds her baby (Section 46). In this case, if the requested re-assignment is not made immediately, the worker may stop working until she is re-assigned or the child is weaned (Section 47). The worker retains all the benefits attached to the employment she occupied, as in the previous cases (Section 48).

2. In order to prevent discrimination against women on the grounds of marriage or maternity and to ensure their effective right to work, States Parties shall take appropriate measures:

   a) To prohibit, subject to the imposition of sanctions, dismissal on the grounds of pregnancy or of maternity leave and discrimination in dismissals on the basis of marital status;

See International Covenant on Economic, Social and Cultural Rights, Canada's Report on the implementation of Articles 10 to 12 of the Covenant, Quebec section, pp. 405-406.

Lay-offs on the grounds of civil status are prohibited in Quebec under Section 16 of the Charter of Human and Rights and Freedoms (R.S.Q., Chap. C-12):

> "16. No one may practise discrimination in respect of the hiring, apprenticeship, duration of the

> probationary period, vocational training, promotion, transfer, displacement, laying-off, suspension, dismissal or conditions of employment of a person or in the establishment of categories or classes of employment."

The Act to amend the Charter of Human Rights and Freedoms, (Appendix 4) also includes "pregnancy" as an unlawful ground for discrimination.

b) To introduce maternity leave with pay or with comparable social benefits without loss of former employment, seniority or social allowances;

See International Covenant on Economic, Social and Cultural Rights, Canada's Report on the implementation of the provisions of Articles 10 to 12 of the Covenant, Quebec section, pp. 405-406.

The Government of Quebec, as an employer, in the collective agreements it has signed with its employees, grants twenty (20) weeks of maternity leave during which the woman receives ninety percent (90%) of her salary, and parental leave without pay for up to two (2) years.

c) To encourage the provision of the necessary supporting social services to enable parents to combine family obligations with work responsibilities and participation in public life, in particular through promoting the establishment and development of a network of child-care facilities;

See International Covenant on Economic, Social and Cultural Rights, Canada's Report on the implementation of the provisions of Articles 10 to 12 of the Covenant, Quebec section, pp. 396-397.

Quebec has adopted a child care policy based on access to quality services guaranteed by increased resources and the relevant administrative mechanisms.

The Day Care Services Board (Office des services de garde à l'enfance) is the agency responsible for implementing the Act respecting Child Day Care (R.S.Q., Chap. S-4.1), (Appendix 26). The Board has the task of identifying day-care needs and coordinating, organizing and developing these services. The Board also makes staff available to help individuals and organizations organize and maintain existing services or those in the process of being set up.

The Board has seventeen members, thirteen of whom, including the Chairwoman, are appointed by the government.

The Chairwoman works full time and is responsible for the administration of the Board. Among the other members, five (5) must be parents with children in day care and one of them must be the parent of a handicapped child. Three (3) others must be persons working in the child careservices, one (1) must be a parent who is an employer with a child(or children) in day care, one (1) must be an employee who is a parent with a child (or children) in day care, one (1) member must be a school commissioner or trustee, one (1) member must be a municipal councillor and four (4) members must be civil servants appointed by the Ministers of Social Affairs, Education, Municipal Affairs and Status of Women.

Child care services are not free. However, the Board can exempt parents from part of the costs they have to pay so that their children may benefit from day care services in a centre, or in a home or school. In 1982, $20,606,740 were paid out in exemptions and financial help to parents. The amount of the exemption varies, depending on the family's net annual income, its size, the number of children in day care, the cost of the day care service and, in some cases, the number of hours the child is in care.

On March 31, 1982, there were 281 day-care centres providing 22,701 places and 16 home day-care agencies providing 874 places.

The Board's budget for 1981-1982 was $41,520,000 compared with $31,689,892 for the previous year.

On the subject of day care for school-age children, see La garde des enfants d'âge scolaire, Petit à petit, (Day care for school-age children, Little by little) Vol. 1, No 3, p. 4 (Appendix 27), Les services de garde au Québec: une vue d'ensemble (English version: Child Day Care Services in Quebec: an overall view), p. 53 (Appendix 28).

d) To provide special protection for women during pregnancy in types of work provided to be harmful to them.

See, above, the information given under Article 11,1f) of the Convention.

3. Protective legislation relating to matters covered in this article shall be reviewed periodically in the light of scientific and technological knowledge and shall be revised, repealed or extended as necessary.

The Government of Quebec supports this commitment. See the comments under Article 3 of this report.

Article 12

1. States Parties shall take all appropriate measures to eliminate discrimination against women in the field of health

care in order to ensure, on a basis of equality of men and women, access to health care services, including those related to family planning.

Concerning health care, see International Covenant on Economic, Social and Cultural Rights, Canada's Report on Articles 6 to 9, Quebec section, August 1980, List of social laws, pp. 297-302; see "Il était une fois une médecine mâle" (Once upon a time there was a male-oriented medical system), Gazette des femmes (Women's Gazette), Vol. 2, No 4, Status of Women Council (Conseil du statut de la femme) (Appendix 29) and "La santé: décider pour soi" (Health: your own decision), Gazette des femmes (Women's Gazette), Vol. 3, No 7, Status of Women Council (Conseil du statut de la femme), pp. 8-32 (Appendix 30).

With respect to family planning, there are two programs in Quebec apart from the schools program mentioned under Article 10, Paragraph b) of the Convention.

The first program concerns basic consultation services in the local community health centres (L.C.H.C.). It was established in 1976. Designed to offer individualised services to the whole population, this program was entrusted to the L.C.H.C.s, since they assume responsibility for day-to-day services and specific preventive and community-oriented programs.

The aim of this program is to provide the population with complete basic birth control services. These include information, education, medical and psychosocial consultation, referral and follow-up.

The education and information parts of the program usually take the form of activities for groups of the target population considered most at risk (young workers, women approaching menopause).

Psychosocial and medical consultations are given on an individual basis or to couples with a special need. Care, evaluation, delivery of the service requested or referral to other services all come under this activity.

Birth control consultation often requires psychosocial intervention in addition to medical attention. The professional training of the personnel assigned to this program covers both these aspects.

In December 1980, thirty-six (36) L.C.H.C.s, located in most of the regions of Quebec, had been specially funded to participate in these birth control programs.

The second program concerns the development of more specialized services in the hospitals.

The particular aim of this program is to ensure the delivery of so-called specialized birth control consultation services (sterilization, therapeutic abortion, infertility) in hospitals throughout Quebec. The basic services offered include sterilization for both men and women, treatment for infertility and therapeutic abortions. The program aims not only at providing medical care but also the relevant psychosocial consultation services. It is available to anyone with any of these needs.

Twenty-six (26) birth control clinics have been funded in all the regions of Quebec.

2. Notwithstanding the provision of paragraph 1 above, States Parties shall ensure to women appropriate services in connection with pregnancy, confinement and the post-natal period, granting free services where necessary, as well as adequate nutrition during pregnancy and lactation.

See International Covenant on Economic, Social and Cultural Rights, Canada's Report on the implementation of the provisions of Articles 10 to 12 of the Covenant, Quebec section, pp. 461-463 and Canada's Report on Articles 6 to 9, Quebec section, August 1980, p. 299.

## Article 13

States Parties shall take all appropriate measures to eliminate discrimination against women in other areas of economic and social life in order to ensure, on a basis of equality of men and women, the same rights, in particular:

a) The right to family benefits;

See International Covenant on Economic, Social and Cultural Rights, Canada's Report on the implementation of the provisions of Articles 10 to 12 of the Covenant, Quebec section, pp 395-396, 399-403. See also under the same Covenant, Canada's Report on Articles 6 to 9, Quebec section, August 1980, p. 300.

Under the Act respecting Work Income Supplement (R.S.Q., Chap. C-37.1) (Appendix 31), anyone who, for a family or for himself, wishes to receive a work income supplement, must make an application (Section 9) to the Minister of Revenue, who must examine it "with all due dispatch" (Section 11) and send a notice to the applicant informing him of his decision (Section 12). A family is entitled to a work income supplement for one year if, on December 31 of the preceding year, (a) it was composed of spouses having at least one dependent child who is their own child or who is the child of one of them, of a person having at least one dependent child who is his own child, or of spouses one of whom has reached the age of 35; (b) one of these spouses or that person had had a work income during that preceding year;

(c) these spouses or that person was resident in Quebec and one of them or that person had been resident in Canada for at least one year; and (d) these spouses or that person had property not excluded by regulation.

A single person is also entitled to a work income supplement on the same terms as above (Section 3).

b) The right to bank loans, mortgages and other forms of financial credit;

Sections 12 and 13 of the Charter of Human Rights and Freedoms (R.S.Q., Chap. C-12) stipulates that:

> "12. No one may, through discrimination, refuse to make a juridical act concerning goods or services ordinarily offered to the public.
>
> "13. No one may in a juridical act stipulate a clause involving discrimination.
>
> Such a clause is deemed without effect."

c) The right to participate in recreational activities, sports and in all aspects of cultural life.

See Etat des actions gouvernementales en matière de condition féminine (Report on government action with regard to the Status of Women) (Appendix 9), pp. 4 to 9.

## Sports and Recreation

The studies and analyses on which the plan of action of the Department of Recreation, Hunting and Fishing (Ministère du Loisir, de la Chasse et de la Pêche) with regard to the status of women was based, showed a lack of participation on the part of women in recreational activities. They only spend 25% of their free time in organized recreational activities and usually choose forms of recreation related to their domestic and family life.

Since less women than men practise physical activities, the Department hopes to encourage their participation through the Kino-Québec advertising campaign, much of which is specifically aimed at women and teenage girls.

Conditions of access to recreational activities may be a barrier to participation, which is why the Department has decided to set up day-care facilities in recreational centres. Recreational equipment funding programs will consider requests for help in fitting up day-care premises. Experimentation with various forms of recreation centres combined with day-care facilities, started in the summer of 1980, will be continued and extended.

One of the problems raised in the Status of Women Council's report (Appendix 8, pp. 280 ff) on women and recreation is that such activities are not adapted to their particular needs. Either because the timetables of recreational organizations do not fit in with that of mothers at home or because the activities are too structured for women who work both in and outside the home, women mentioned the importance of developing new forms of recreational organization which would take their specific needs into account.

The Department has recognized the need to adapt physical conditioning programs to women's special physiological and sociological needs. A physical conditioning program for pregnant women has thus been introduced. It is adapted to the various stages of pregnancy and differences in the physical condition of pregnant women.

The Department has also adopted a plan to develop courses in self-defence. Its intervention will particularly concern basic and advanced training for those responsible for these courses.

Also, in projects to be adopted regarding the establishment of holiday accommodation accessible to families, for example, a network of family-holiday villages, the Department will take account of women's parental role by adapting these various holiday amentities to their needs. Thus, it will see that the facilities provided include cafeteria, day-care and activity services for children and teenagers.

A more balanced distribution in the structures of these amenities is also necessary.

A survey of the heads of the various recreational federations and associations shows that women are noticeably absent. Less than 15% of members of their boards of directors are women, only 6% of the directors of organizations are women, and women also constitute no more than 25% of the associations' professional staff. The Department has therefore decided to encourage a fairer representation of women in the structures of organized leisure activities.

This objective may be attained at three levels: first, by ensuring that the government sets an example of a more balanced representation of men and women in organizations to which it appoints members; secondly, by encouraging recreational organizations to hire women at all staff levels, not forgetting a fair representation of women on their boards of directors; and lastly, by urging women to participate in the structures that are set up.

The Department also helps in providing information for women interested in the fields of recreation, hunting and fishing.

A study of policies to be adopted with regard to the situation of women revealed gaps in research in this area. It is essential to have accurate information concerning women's recreational needs and behaviour patterns if intervention is to be effective.

For this purpose, the Department makes sure that all research carried out includes an adequate sample of women so that special analyses of this clientèle may be made.

In particular, research is being carried out concerning the physical fitness of Quebec women. This should give interesting data about the differences between men and women on this question.

The "sex" variable will be systematically included when data is collected concerning the users of the various services. These measures should provide a clearer picture of women's participation in recreational activities, hunting and fishing.

Lastly, the image of women projected in the media is not, on the whole, likely to encourage their participation in recreational activities, especially as regards hunting and fishing. Few sportswomen are shown as models: less than 1% of all the televised sports commentaries are devoted to women, and advertising contains very few messages in which women are shown being active or practising a sport. The Department has therefore included in its policies communications programs which are not only non-sexist but which show positive pictures of women likely to stimulate their participation in recreational activities, hunting and fishing.

Other activities still have to be worked out, but programs, on the whole, are well under way. Their implementation involves the collaboration of municipalities, organizations and women themselves. It is certain that this collaboration will be forthcoming, guaranteeing the quality of life and the establishment of a society in Quebec based on relationships between equals.

For examples regarding cultural life, see Politique d'égalité des chances (Equal opportunities policy), Department of Cultural Affairs (Ministère des Affaires culturelles), 1981-1982 results, August 1982 (Appendix 32) and Concours de création interdisciplinaire: jouet ou jeu, conte et chanson (Interdisciplinary creativity competition; toy or game, story and song), programme Pareille, pas pareils (Equal not identical) (Appendix 33).

## Article 14

1. States Parties shall take into account the particular problems faced by rural women and the significant roles

> which they play in the economic survival of their families, including their work in the non-monetized sectors of the economy, and shall take all appropriate measures to ensure the application of the provisions of this Convention to women in rural areas.

See International Covenant on Economic, Social and Cultural Rights, Canada's Report on the implementation of the provisions of Articles 10 to 12 of the Pact, Quebec section, pp. 406-407 and, above, comments concerning the recognition of experience.

The matrimonial régime in force in Quebec is the "régime de la société des acquets", i.e. the partnership of acquests.

Under this system, all property belonging to either spouse which is not declared to be private by law forms part of the community property which must, if the marriage is dissolved, be shared equally between the spouses.

Section 481 of the Civil Code stipulates that "the acquests of each spouse include all property not declared to be private property by law and, in particular: (1) the proceeds of his work during the regime; (2) the fruits and income due or collected from all his private property or acquests during the regime."

The private property of each spouse consists, for example, of property owned or possessed by him when the regime comes into effect, property that accrues to him during the regime by succession, legacy or gift, property acquired by him to replace private property, the rights and advantages that accrue to him under a contract or plan for a retirement pension or for insurance of persons, etc.

During the marriage, each spouse has the administration, enjoyment and free disposal of his private property and acquests (section 493, Civil Code). Neither spouse may, however, without the consent of the other, dispose of his acquests *inter vivos* by gratuitious title, with the exception of modest sums and customary presents (section 494).

One of the spouses may also make a "declaration of family residence" which will prevent the other spouse from alienating the family residence, charging it with a real right or leasing that part of it reserved for the use of the family, without the spouse's consent.

When the marriage is dissolved or annulled, the court may also award to one of the spouses the ownership or habitation of the property that was used as the principal family residence, in compensation for his contribution to the enrichment of the patrimony of the other. Such a judgment is equivalent to title and has the effects thereof.

The status of the woman who is her husband's collaborator in a money-making enterprise is recognized in Quebec law.

The Taxation Act has been amended to enable the owner of a non-incorporated family business to deduct the salary paid to a spouse as a running cost. These amendments allow such women to contribute to the Quebec Pension Plan (Régime des rentes du Québec). The employer's spouse also benefits from the provisions of the Act respecting Labour Standards (R.S.Q., Chap. N-1.1) and the Act respecting Occupational Health and Safety (R.S.Q., Chap. S-2.1).

2. States Parties shall take all appropriate measures to eliminate discrimination against women in rural areas in order to ensure, on a basis of equality of men and women, that they participate in and benefit from rural development and, in particular, shall ensure to such women the right:

   (a) To participate in the elaboration and implementation of development planning at all levels;

See, above, the comments under Article 7 of the Convention.

   (b) To have access to adequate health care facilities, including information, counselling and services in family planning;

See, above, the comments under Articles 10b) and 12.1) of the Convention.

   (c) To benefit directly from social security programmes;

See, above, the comments under Article 11e) of the Convention.

   (d) To obtain all types of training and education, formal and non-formal, including that relating to functional literacy, as well as the benefit of all community and extension services, inter alia, in order to increase their technical proficiency;

See, above, the comments under Article 10 of the Convention and, as an example, (Appendix 34), the student populations of the Institutes of Agricultural Technology at St-Hyacinthe and La Pocatière.

   (e) To organize self-help groups and co-operatives in order to obtain equal access to economic opportunities through employment or self employment;

The statistics of the Department of Financial Institutions and Co-operatives (Ministère des Institutions financières et coopératives) give no data concerning the number of women belonging to cooperatives in Quebec.

(f) To participate in all community activities;

See the comments under Articles 7, 10, 11 and 13 of the Convention.

(g) To have access to agricultural credit and loans, marketing facilities, appropriate technology and equal treatment in land and agrarian reform as well as in land settlement schemes;

In 1981, the Human Rights Commission (Commission des droits de la personne) notified the Minister of Agriculture, Fisheries and Food that a provision of the Act to promote the Development of Agricultural Operations (R.S.Q., Chap. M-36) seemed to it to be discriminatory. This law stipulated that a larger grant could be obtained in cases where a farm was operated jointly by several farmers. Section 23 stated, however, that "two legitimate spouses not judicially separated from bed and board and two common law spouses living together shall qualify such corporation, co-operative, partnership or group (...) to only one time the amount of the grant."

In its opinion, the Human Rights Commission (Commission des droits de la personne) recognized that both spouses were not automatically concerned since the law required the persons subsidized to have a significant participation in the operation in question. But since the exclusion was based on the civil status of only one person and not on the involvement of the spouse in the operation of the farm, the provision became discriminatory.

The Act to promote the Establishment of Young Farmers (R.S.Q., Chap. E-12.1) amends the Act to promote the Development of Agricultural Operations by omitting the exclusion of the former Section 23.

(h) To enjoy adequate living conditions, particularly in relation to housing, sanitation, electricity and water supply, transport and communications.

See the comments under paragraphs b) and c) of this article of the Convention.

## Article 15

1. States Parties shall accord to women equality with men before the law.

The second consideration of the preamble of the Charter of Human Rights and Freedoms (R.S.Q., Chap. C-12) states:

> "Whereas all human beings are equal in worth and dignity, and are entitled to equal protection of the law;"

Article 10 of the same law recognizes that:

> "Every person has a right to full and equal recognition and exercise of his human rights and freedoms, without distinction, exclusion or preference based on (...) sex, (...) (and) civil status..."

2. States Parties shall accord to women, in civil matters, a legal capacity identical to that of men and the same opportunities to exercise that capacity. They shall in particular give women equal rights to conclude contracts and to administer property and treat them equally in all stages of procedure in courts and tribunals.

A study by the research branch of the Quebec Department of Justice (Ministère de la Justice du Québec), carried out in 1981, indicated that five sections of the Quebec Code of Civil Procedure were discriminatory with regard to women.

Since then, the Act to provide for the carrying out of the Family Law Reform and to amend the Code of Civil Procedure (Appendix 35), assented to on June 11, 1982 and promulgated on December 1, 1982, amended these five sections. As an example, it should be noted that now, actions in matters of family law may be taken before the court of the common domicile of the parties or, failing such domicile, the domicile of either of the parties, and no longer only before the court of the husband's domicile (Section 8, Appendix 35). Similarly, a writ may no longer indicate a woman's matrimonial status (Section 9, Appendix 35). A married woman may no longer be designated by the name of her husband (Section 10) by virtue of the amendments respecting the name of a married woman introduced into the Quebec Civil Code, the effects of which will be discussed below under Article 16g).

3. States Parties agree that all contracts and all other private instruments of any kind with a legal effect which is directed at restricting the legal capacity of women shall be deemed null and void.

Sections 12 and 13 of the Charter of Human Rights and Freedoms (R.S.Q.) deal with discrimination in juridical acts:

> "12. No one may, through discrimination, refuse to make a juridical act concerning goods or services ordinarily offered to the public.
>
> "13. No one may in a juridical act stipulate a clause involving discrimination.
>
> Such a clause is deemed without effect".

4. States Parties shall accord to men and women the same rights with regard to the law relating to the movement of persons and the freedom to choose their residence and domicile.

Articles 79, 80 and 81 of the Quebec Civil Code deal with this question:

> "79. The domicile of a person, for all civil purposes, is at the place where he has his principal establishment.
>
> "80. Change of domicile is effected by actual residence in another place, coupled with the intention of the person to make it the seat of his principal establishment.
>
> "81. The proof of such intention results from the declarations of the person and from the circumstances of the case."

For the provisions relating to the domicile of the spouses considered as the place of introduction of a civil action, see above, the comments under Article 15.2) of the Convention.

## Article 16

1. States Parties shall take all appropriate measures to eliminate discrimination against women in all matters relating to marriage and family relations and in particular shall ensure, on a basis of equality of men and women:

a) The same right to enter into marriage;

Several provisions of the Act to establish a new Civil Code and to reform Family Law (Appendix 36), assented to on December 19, 1980, have been promulgated whereas others are subject to agreements with the federal government, since some of the questions relating to marriage come under federal jurisdiction. Thus, in Quebec, under Section 115 of the Civil Code, a man cannot enter into marriage before the age of 14 and a woman before the age of 12. The law establishing a new Civil Code (1980, Chap. 39) states that "no person may contract marriage before he is eighteen years of age" (Section 402). The same law stipulates that the tribunal may grant a dispensation from the age requirement on serious grounds (Section 403).

b) The same right freely to choose a spouse and to enter into marriage only with their free and full consent;

Section 116 of the Quebec Civil Code states that "there is no marriage when there is no consent."

The law establishing a new Civil Code (1980, Chap. 39) amends these provisions by the new Sections 400 and 401 of the Civil Code:

> "400. Marriage requires the free and enlightened consent of the intended spouses.
>
> "401. Consent to marriage is the agreement expressed by a man and a woman to take each other as husband and wife."

c) The same rights and responsibilities during marriage and at its dissolution.

Section 441 of the Civil Code, in effect since April 1982, stipulates:

> "441. The spouses have identical rights and obligations in marriage.
>
> They owe each other respect, fidelity, succour and assistance. They must live together.

d) The same rights and responsibilities as parents, irrespective of their marital status, in mattersrelating to their children. In all cases, the interests of the children shall be paramount;

Section 443 of the Civil Code states that:

> "The spouses together take in hand the moral and material direction of the family, exercise parental authority and assume the tasks resulting therefrom."

If there is disagreement, Section 448 of the Civil Code stipulates:

> "If the spouses disagree as to the exercise of their rights and the performance of their duties, they or either of them may apply to the court, which will decide in the interest of the family after fostering the conciliation of the parties."

Moreover, as regards common-law spouses, Section 648 of the Civil Code states:

> "The father and mother exercise parental authority together."

e) The same rights to decide freely and responsibly on the number and spacing of their children and to have access to the information, education and means to enable them to exercise these rights;

See, above, the comments under Articles 16.1c) and 12.1) of the Convention.

> f) The same rights and responsibilities with regard to guardianship, wardship, trusteeship and adoption of children, or similar institutions where these concepts exist in national legislation. In all cases, the interest of the children shall be paramount.

On these questions, the woman has the same juridical capacity as the man. Section 1 of the Charter of Human Right and Freedoms (R.S.Q., Chap. C-12) (Appendix 2) stipulates that every human being possesses juridical personality. Section 18 of the Civil Code also says that "every human being possesses juridical personality. Whether citizen or alien, he has the full enjoyment of civil rights, except as otherwise expressly provided by law."

With regard to tutors, Section 252 of the Civil Code stipulates that relations called to a family council "may be of the male or female sex."

As far as children are concerned, the idea of illegitimacy has disappeared from Quebec law. Thus, "All children whose filiation is established have the same rights and obligations, regardless of their circumstances of birth" (Section 594, Civil Code).

Since December 1, 1982, a revision of the Civil Code has included the title First A respecting children. Also since this date, provisions respecting adoption have been included in the Civil Code. However, the Department of Social Affairs (Ministère des Affaires sociales) continues to administer the Adoption Act.

Section 30 of the Civil Code states that "In every decision concerning a child, the child's interest and the respect of his rights must be the determining factors (...)." See Appendix 36, page 44.

The court may also, every time it takes cognizance of an application affecting the interest of a child, give the child an opportunity to be heard (Section 31). This section establishes the child's right to be represented by a lawyer before all tribunals.

See the comments under Paragraph g), below.

As regards adoption, "no adoption may take place except in the interest of the child and on the conditions prescribed by law." (Section 595, Civil Code). See Appendix 36, pages 36 ff.

As to adopters, Section 598 of the Civil Code stipulates that "any person of full age may, alone or jointly with another person, adopt a child."

See, also, the Youth Protection Act, (Appendix 37).

> g) The same personal rights as husband and wife, including the right to choose a family name, a profession and an occupation;

Concerning the personal rights of husband and wife, see, above, the comments under Article 16c) and 16f) of the Convention.

In Quebec, a married woman keeps her name and given name: "In marriage, each spouse retains his surname and given names, and exercises his civil rights under this surname and these given names" (Section 442, Civil Code).

Parents can choose to give their child one or several first names as well as the surname either of the father, the mother, or a name composed of the surnames of both mother and father:

> "A child is assigned, at the option of his father and mother, one or more given names, and the surname of one parent or a surname consisting of not more than two parts, taken from the surnames of his father and mother."
>
> (Section 56.1, Civil Code)

> h) The same rights for both spouses in respect of the ownership, acquisition, management, administration, enjoyment and disposition of property, whether free of charge or for a valuable consideration.

See, above, the comments under Article 16c) of the Convention.

The presumption of death favouring the man in cases where several persons die without it being possible to establish who survived the longest, has disappeared from Quebec law. In such cases, they are all, irrespective of their sex and age, considered to have died simultaneously.

2. The betrothal and the marriage of a child shall have no legal effect and all necessary action, including legislation, shall be taken to specify a minimum age for marriage and to make the registration of marriages in an official registry compulsory.

See, above, the comments under Articles 16a) and 16b) of the Convention.

# APPENDICES[1]

1. Decree of the Government of Quebec concerning the Convention on the Elimination of all Forms of Discrimination against Women, No 2894-81, October 20, 1981
2. *Charter of Human Rights and Freedoms*, R.S.Q., Chap. C-12
3. Human Rights Commission (Commission des droits de la personne), *La discrimination* (Discrimination), Cahier (Notebook) 1, Montreal, 1980
4. National Assembly of Quebec, *An Act to amend the Charter of Human Rights and Freedoms*, December 18, 1982
5. CARON, Madeleine, "La Commission des droits de la personne du Quebec: cinq années de lutte pour le droit à l'égalité" (The Quebec Human Rights Commission: Five Years of Fighting for the Right to Equality), *Revue générale de droit* (General Law Review) (1981), University of Ottawa, pp 335 ff.
6. Human Rights Commission (Commission des droits de la personne), *Young, Equal in Rights and Responsible*, Department of Education (Ministère de l'Education), 1981
7. Human Rights Commission (Commission des droits de la personne), *Droits et libertés* (Rights and Freedoms), Vol. 5, No 5, May-June 1982
8. Status of Women Council (Conseil du statut de la femme), *Pour les Québécoises: égalité et indépendance* (Quebec women: Equality and Autonomy), Quebec Official Publisher (Editeur officiel du Québec), 1978
9. General Secretariat on the Status of Women (Secrétariat général à la Condition féminine), *Etat des actions gouvernementales en matière de condition féminine, 1980-1981* (Report on government actions with regard to the status of Women, 1980-1981), Quebec Department of Communications (Ministère des Communications du Québec), 1981
10. Civil Service Department (Ministère de la Fonction publique), Equal Opportunities Program (Programme égalité des chances), *Egalité en emploi pour les femmes dans la fonction publique* (Equal employment opportunities for women in the civil service), 1980

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[1] Since the documents appended to this Report were in French, the original titles have been retained, except where official versions exist (e.g. Statutes). An unofficial translation of the titles is provided.

11. Department of Education (Ministère de l'Education), Education Development Branch (Direction générale du développement pédagogique), *Grille d'analyse des stéréotypes discriminatoires dans le matériel didactique* (Screening grid for discriminatory stereotypes in teaching materials), Cahier (Notebook) I, Guide d'utilisation de la grille d'analyse (Guide to the screening grid); Cahier (Notebook) II, Les feuilles d'enregistrement des données (Data Sheets); Cahier (Notebook) III, Synthèse de l'analyse (Summary)

12. Department of Recreation, Hunting and Fishing (Ministère du Loisir, de la Chasse et de la Pêche), *Les Québécoises et la loisir* (Quebec women and recreation), 1981

13. Youth Protection Committee (Comité de la protection de la jeunesse), collaboration, *La prostitution des jeunes? Connais pas....* (Teenage prostitution? Never heard of it...), 1980

14. Youth Protection Committee (Comité de la protection de la jeunesse), Study Group on the prostitution of minors (Groupe de travail sur la prostitution chez les mineurs), *Rapport de groupe de travail sur la prostitution chez les mineurs* (Report of the study group of the prostitution of minors), Montreal 1980

15. Department of Municipal Affairs (Ministère des Affaires municipales), Communications Directorate (Direction des Communications), *Rapport d'évaluation de la campagne de sensibilisation aux élections municipales de 1981* (Evaluation report on the 1981 municipal elections sensitizing campaign), April 1982

16. Association des femmes diplômées des Universitées (Montreal), *La place des femmes dans les corporations professionnelles* (The place of women in professional corporations), Montreal, 1981

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